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NUCLEAR REGULATORY COMMISSION

10 CFR Part 15

RIN 3150-AC87

Debt Collection Procedures

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations concerning the procedures that the NRC uses to collect the debts which are owed to it. The amendment is necessary to conform NRC regulations to the amended procedures contained in the Federal Claims Collection Standards issued by the General Accounting Office (GAO) and the Department of Justice (DOJ). This action is intended to allow the NRC to further improve its collection of debts due the United States.

EFFECTIVE DATE: September 10, 1990.

FOR FURTHER INFORMATION CONTACT: Diane B. Dandois, Chief, License Fee and Debt Collection Branch, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-7225.

SUPPLEMENTARY INFORMATION: On February 22, 1982 (47 FR 7615), the NRC published a final rule concerning debt collection procedures. Since then, the Debt Collection Act of 1982 (Pub. L. 97-365) was enacted on October 25, 1982, which revised the Federal Claims Collection Act of 1966 (31 U.S.C. 3701 *et seq.*). On March 9, 1984 (49 FR 8889), GAO and DOJ issued a final rule amending the Federal Claims Collection Standards as set out in 4 CFR parts 101-105. On October 7, 1988 (53 FR 39480), the NRC published a proposed rule based on the requirements contained in the Federal Claims Collection Standards. The public was invited to submit written comments on the proposed rule by November 21, 1988, and no comments were received.

The revision to 10 CFR part 15 establishes procedures for the NRC to collect, compromise, or terminate collection action on claims owed to the United States Government arising from activities under NRC jurisdiction. The revision implements the Federal Claims Collection Act as amended by the Debt Collection Act and supplements the amendments to the Federal Claims Collection Standards. This revision, however, does not implement the salary offset provisions of the Debt Collection Act. Those provisions will be implemented through the establishment of 10 CFR part 16 which is currently under development by the Commission.

In addition this rulemaking does not address the collection of civil penalties under 10 CFR 2.205. NRC is considering a separate rulemaking action to specify those provisions of 10 CFR part 15 which apply to civil penalties assessed by NRC under 10 CFR 2.205.

Section by Section Analysis

Section 15.1 Application

This section is revised to make it clear that part 15 prescribes NRC procedures for collecting, compromising, terminating, and referring claims to GAO and DOJ, and to conform to Public Law 99-224.

Paragraph (b)(1) is modified to conform to the provisions of Public Law 99-224, dated December 28, 1985, which amended 5 U.S.C. 5584, 10 U.S.C. 2774 and 32 U.S.C. 716 by authorizing waivers of erroneous payments of travel, transportation and relocation expenses, and allowances.

A new paragraph (b)(2) is added to indicate that civil monetary penalties imposed under 10 CFR 2.205 are subject to special statutory and administrative procedures.

Section 15.2 Definitions

This new section is added to provide definitions for the terms "administrative offset," "claim and debt," "delinquent," "license," and "payment in full" as they are used in this part and 4 CFR parts 101-105.

Section 15.3 Communications

This section is revised by correcting the Commission's address for communications concerning the regulations in 10 CFR part 15.

Section 15.5 Claims that are Covered

This section is revised to note that the provisions of 10 CFR part 15 which apply to civil penalties shall be specified in 10 CFR 2.205, to note that the provisions of 10 CFR part 15 do not apply either to claims between Federal agencies, or to claims once they become subject to the salary offset provisions of 5 U.S.C. 5514, and to explicitly provide that fees imposed under 10 CFR parts 170 and 171 are covered.

Section 15.7 Monetary Limitations on NRC's Authority

The statutory citation in this section is corrected to read 31 U.S.C. 3711(b). Paragraph (b) is modified to include "penalties, and administrative costs" with the exclusion of interest from the $20,000 limitation on the NRC's compromise authority.

Section 15.9 Omissions Not a Defense

This section is modified to include the citation for the Federal Claims Collection Standards.

Section 15.13 Subdivision of Claims

A cross reference to the statutory and regulatory authority for this section is added.

Section 15.21 Written Demands for Payment

Paragraph (a)(1) is modified to include notice to the debtors of their right to seek review within the Agency. Paragraph (a)(4) is modified to indicate the date of mailing or hand delivery as the date on which payment is to be made under normal circumstances, consistent with 4 CFR part 102. Paragraph (a)(5) is modified to include penalties and administrative costs of collection in the demand for payment.

Minor editorial changes are made to paragraph (b), including the addition of possible reporting of delinquent debts to consumer reporting agencies.

Section 15.25 Personal Interviews

This section is modified to make personal interviews discretionary on the part of the NRC under paragraph (a) while maintaining a requirement to grant an interview to the debtor, if requested, under paragraph (b).

Section 15.26 Use of Consumer Reporting Agencies

A new section is added to provide for the reporting of delinquent debts to consumer reporting agencies, notifying debtors of these actions, reporting debt status changes to debtors, and limiting the information which the NRC may provide to consumer reporting agencies.

Section 15.29 Suspension or Revocation of License

This section is modified to correspond more closely to the terminology used in 4 CFR parts 101-105.

Section 15.31 Disputed Debts

This section is modified to correspond more closely to the terminology used in 4 CFR parts 101-105.

Section 15.32 Contracting for Collection Services

This new section is added to provide for NRC action to collect a debt by means of a commercial collection agency, as authorized by 4 CFR 102.6.

With the inclusion of this new section, § 15.63 is removed from subpart E of this part.

Section 15.33 Collection by Administrative Offset

This section is modified to disclose the 10 year limitation on the NRC's authority to initiate an administrative offset. If the payment of fees to the NRC is deferred, the ten years will run from the end of the deferral period or any other period the NRC subsequently establishes.

Paragraphs (b) and (c) of this section are changed to make it consistent with the provisions in 4 CFR 102.2, 102.3, and 102.4, and 5 U.S.C. 5514. Provisions are added to establish the debtor's procedural rights, to provide for seeking offset from other Government agencies when they have funds due the debtor, to provide for NRC acceptance of a repayment agreement in lieu of an offset, and to establish other limitations on the use of administrative offset in the collection of debts owed the NRC.

Section 15.35 Payments

Language is added to this section to clarify that charges for interest, penalties, and administrative costs will be assessed on delinquent payments paid in full in one lump sum. In addition, language is added to explain how an installment agreement will be instituted and applied to a debt. The significant additions are a provision for accelerated payment in the event the debtor defaults on an installment agreement and an indication that the NRC will comply with the debtor's instructions in the application of payments when more than one debt is involved. If the debtor does not, however, designate the application of payments, the NRC will apply the payments in the best interest of the United States.

Section 15.37 Interest, Penalties, and Administrative Costs

This section is changed substantially by revising its title and adding the following new paragraphs:

Paragraph (e) provides that the interest rate on a debt will remain fixed except under specified circumstances.

Paragraph (f) provides that the NRC will assess against the debtor the costs of administratively handling a delinquent debt.

Paragraph (g) codifies the current NRC practice of assessing a penalty charge in the amount of 6 percent per annum on a debt that is delinquent for more than 90 days. This charge accrues from the date that the debt became delinquent. Thus, both interest and penalties are calculated from the same initial date.

Paragraph (h) provides that payments will be applied first to outstanding penalty and administrative charges, then to interest, and finally to the principal.

Paragraph (i) codifies current NRC practice of waiving interest for debts paid within 30 days of the due date.

Paragraph (j) codifies current NRC practice of waiving interest during the period a disputed debt is under investigation.

Paragraph (k) codifies other circumstances under which interest, penalties, and administrative costs may be waived.

Section 15.38 Use of Credit Reports

A new section is added to allow NRC to institute a credit investigation of a debtor in order to make appropriate determinations regarding the collection of a claim.

Section 15.41 When a Claim May Be Compromised

The opening sentence of this section is changed for clarification purposes only.

Section 15.43 Reasons for Compromising a Claim

This section is modified to bring it into conformity with 4 CFR part 103. Paragraph (c) is changed to indicate that collection costs will be expended in accordance with 4 CFR 103.4 rather than as currently stated. Paragraph (d) is divided to set out separately in a new paragraph (e) the requirement for an enforceable agreement of installment payments under a compromise of a claim.

Section 15.45 Restrictions on the Compromise of a Claim

The opening sentence of this section is changed for clarification purposes only.

Section 15.51 When Collection Action May Be Suspended or Terminated

This section is modified to indicate the exclusion of interest, penalties, and administrative costs from the monetary limitation on when the NRC may suspend or terminate collection action.

Section 15.61 Prompt Referral

Paragraph (a) is modified to delete the reference to a private collection agency which is now to be addressed in the new § 15.32 discussed above. A one-year referral requirement is codified for NRC action after final determination of the fact and the amount owed to the NRC.

A new paragraph (b) is added to provide for NRC referral to GAO of questions concerning acceptance of a proposed compromise, suspension, or termination of collection actions in order to obtain GAO's advice on the matter in question. The current paragraph (b) is redesignated as paragraph (c).

A new paragraph (d) is added to reflect the fact that once a referral has been made to GAO or DOJ, the NRC will refrain from any contact with the debtor and will immediately advise GAO or DOJ of any payments made by the debtor.

Section 15.63 Referral of a Claim to Private Agencies for Collection

This section is deleted both because of the new § 15.32 which addresses these actions, and because these collection actions are not a referral in the truest sense, but rather reflect a different form of collection action by the NRC using other means.

Section 15.67 Referral to the Department of Justice

A new paragraph (a) is added to indicate the threshold for determining to whom the NRC will refer a claim for enforced collection, i.e., DOJ or the appropriate U.S. Attorney. The current paragraphs (a) and (b) are redesignated as paragraphs (b) and (c), respectively.

A new paragraph (d) is added to indicate that the NRC must make its referrals in accordance with the guidance in 4 CFR 105.2, and that pertinent evidence will be preserved.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental statement is not required. Amending the procedures that the NRC uses to collect debts will have no radiological environmental impact offsite and no impact on occupational radiation exposure onsite. The amendment does not affect nonradiological plant effluents and has no other environmental impact. The environmental assessment and finding of no significant impact, on which this determination is based, are available for inspection at the NRC Public Document Room, 2120 L Street, NW. (Lower Level) Washington, DC.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Regulatory Analysis

This final rule will bring NRC debt collection procedures into conformance with current statutory and regulatory guidance and requirements and, therefore, does not have significant impact on state and local governments and geographical regions, health, safety, and the environment; nor does it represent substantial costs to licensees, the NRC, or other Federal agencies. This constitutes the regulatory analysis for this rule.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. Any impact on a small entity which might occur will result solely from the acts or omissions of the small entity concerned because of its failure to pay a valid debt to the NRC. As a result, a regulatory flexibility analysis has not been prepared.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule, and therefore, that a backfit analysis is not required for this rule because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 15

Administrative practice and procedure, Debt collection.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Federal Claims Collection Act of 1966, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 15.

PART 15—DEBT COLLECTION PROCEDURES

1. The authority citation for part 15 is revised to read as follows:

Authority: Secs. 161, 186, 68 Stat. 948, 955, as amended (42 U.S.C. 2201, 2236); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 3, Pub. L. 89-508, 80 Stat. 308, as amended (31 U.S.C. 3711, 3717, 3718); sec. 1, Pub. L. 97-258, 96 Stat. 972 (31 U.S.C. 3713); sec. 5, Pub. L. 89-508, 80 Stat. 308, as amended (31 U.S.C. 3716); Pub. L. 97-365, 96 Stat. 1749 (31 U.S.C. 3701-3719); Federal Claims Collection Standards, 4 CFR parts 101-105.

2. Section 15.1 is amended by revising paragraphs (a) and (b)(1), redesignating paragraph (b)(2) as paragraph (b)(3), and adding a new paragraph (b)(2) to read as follows:

§ 15.1 Application.

(a) This part applies to claims for the payment of debts owed to the United States Government in the form of money or property and; unless a different procedure is specified in a statute, regulation, or contract; prescribes procedures by which the NRC—

(1) Collects, compromises, suspends, and terminates collection actions for claims;

(2) Determines and collects interest and other charges on these claims; and

(3) Refers unpaid claims to the General Accounting Office (GAO) and the Department of Justice (DOJ) for litigation.

(b) * * *

(1) A claim against an employee for erroneous payment of pay and allowances subject to waiver under 5 U.S.C. 5584.

(2) A claim against an applicant for, or a holder or former holder of, an NRC license involving the payment of civil penalties imposed by the NRC under 10 CFR 2.205.

* * * * *

3. Section 15.2 is added to read as follows:

§ 15.2 Definitions.

Administrative offset means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the United States Government.

Claim and *debt* are used synonymously and interchangeably for the purposes of this part. These terms refer to money or property which has been determined by an appropriate NRC official to be owed to the United States by any person, organization, or entity, except another Federal agency.

Delinquent. A debt is considered delinquent if it has not been paid by the date specified in the initial written demand for payment or applicable contractual agreement with the NRC unless other satisfactory payment arrangements have been made by that date. If the debtor fails to satisfy obligations under a payment agreement with the NRC after other payment arrangements have been made, the debt becomes a delinquent debt.

License means any license, permit, or other approval issued by the Commission.

Payment in full means payment of the total debt due the United States, including any interest, penalty, and administrative costs of collection assessed against the debtor.

4. Section 15.3 is revised to read as follows:

§ 15.3 Communications.

Unless otherwise specified, all communications concerning the regulations in this part should be addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington DC 20555, ATTN: Docketing and Service Branch. Communications may be delivered in person to the Commission's offices located at 11555 Rockville Pike, One White Flint North, Rockville, Maryland 20852.

5. Section 15.5 is amended by revising paragraphs (a)(1) and (b)(1), removing the word "and" following paragraph (b)(3), and by adding paragraphs (b)(5) and (b)(6) to read as follows:

§ 15.5 Claims that are covered.

(a) * * *

(1) Results from activities of the NRC, including fees imposed under part 170 and part 171; or

* * * * *

(b) * * *

(1) A claim based on a civil monetary penalty for violation of a licensing

requirement unless § 2.205 of this chapter provides otherwise;

* * * * *

(5) A claim between Federal agencies; and

(6) A claim once it becomes subject to salary offset which is governed by 5 U.S.C. 5514

6. In § 15.7, the introductory paragraph and (b) are revised to read as follows:

§ 15.7 Monetary limitation on NRC's authority.

The NRC's authority to compromise a claim, or to terminate or suspend collection action on a claim covered by these procedures, is limited by 31 U.S.C. 3711(a) to claims that --

* * * * *

(b) Do not exceed $20,000, exclusive of interest, penalties, and administrative costs (the monetary limitation).

7. Section 15.9 is amended by revising paragraph (a) to read as follows:

§ 15.9 Omissions not a defense.

(a) The failure of the NRC to include in this part any provision of the Federal Claims Collection Standards, 4 CFR parts 101-105, does not prevent the NRC from applying these provisions.

* * * * *

8. Section 15.13 is revised to read as follows:

§ 15.13 Subdivision of claims.

The NRC shall consider a debtor's liability arising from a particular transaction or contract as a single claim in determining whether the claim is less than the monetary limitation for the purpose of compromising or suspending or terminating collection action. A claim may not be subdivided to avoid the monetary limitation established by 31 U.S.C. 3711(a)(2) and § 15.7.

9. The heading of subpart B is revised to read as follows:

Subpart B -- Administrative Collection of Claims

10. In § 15.21, paragraphs (b)(3)(iii), (iv), and (v) are redesignated as paragraphs (b)(3)(iv), (v), and (vi), respectively; paragraphs (a)(1), (a)(4), (a)(5), and (a)(6), the introductory text of paragraph (b), and paragraph (b)(2) are revised; and a new paragraph (b)(3)(iii) is added to read as follows:

§ 15.21 Written demands for payment.

(a) * * *

(1) The basis of the indebtedness and the right of the debtor to seek review within the NRC;

* * * * *

(4) The date on which payment is to be made (which is normally the date the initial written demand letter statement was mailed or hand delivered, unless otherwise specified by contractual agreement, established by Federal statute or regulation, or agreed to under a payment agreement);

(5) The applicable standards for assessing interest, penalties, and administrative costs under 4 CFR 102.13;

(6) The applicable policy for reporting the delinquent debt to consumer reporting agencies.

(b) Unless a debtor is a current NRC employee, the NRC shall normally send three progressively stronger written demands at not more than 30-day intervals, unless circumstances indicate that alternative remedies better protect the Government's interest, that the debtor has explicitly refused to pay, or that sending a further demand is futile. Depending upon the circumstances of the particular case, the second and third demands may --

* * * * *

(2) State the amount of the interest and penalties that will be added on a daily basis as well as the administrative costs that will be added to the debt until the debt is paid; and

(3) * * *

(iii) Possible reporting of the delinquent debt to consumer reporting agencies in accordance with the guidance and standards contained in 4 CFR 102.5 and the NRC procedures set forth in § 15.26;

* * * * *

11. In § 15.25, the introductory text of paragraph (a) is revised to read as follows:

§ 15.25 Personal interviews.

(a) The NRC may seek an interview with the debtor at the offices of the NRC when --

* * * * *

12. A new § 15.26 is added to read as follows:

§ 15.26 Use of consumer reporting agencies.

(a) In addition to assessing interest, penalties, and administrative costs under § 15.37, the NRC may report a debt that has been delinquent for 90 days to a consumer reporting agency if all the conditions of this paragraph are met.

(1) The debtor has not --

(i) Paid or agreed to pay the debt under a written payment plan that has been signed by the debtor and agreed to by the NRC; or

(ii) Filed for review of the debt under § 15.26 (a)(2)(iv).

(2) The NRC has included a notification in the third written demand (see § 15.21(b)) to the individual debtor stating --

(i) That the payment of the debt is delinquent;

(ii) That, within not less than 60 days after the date of the notification, the NRC intends to disclose to a consumer reporting agency that the individual debtor is responsible for the debt;

(iii) The specific information to be disclosed to the consumer reporting agency; and

(iv) That the debtor has a right to a complete explanation of the debt (if that has not already been given), to dispute information in NRC records about the debt, and to request reconsideration of the debt by administrative appeal or review of the debt.

(3) The NRC has sent at least one written demand by either registered or certified mail with the notification described in paragraph (a)(2) of this section.

(4) The NRC has reconsidered its initial decision on the debt when the debtor has requested a review under § 15.26(a)(2)(iv).

(5) The NRC has taken reasonable action to locate a debtor for whom the NRC does not have a current address to send the notification provided for in paragraph (a)(2) of this section.

(b) If there is a substantial change in the condition or amount of the debt, the NRC shall --

(1) Promptly disclose that fact(s) to each consumer reporting agency to which the original disclosure was made;

(2) Promptly verify or correct information about a debt on request of a consumer reporting agency for verification of information disclosed by the NRC; and,

(3) Obtain assurances from the consumer reporting agency that the agency is complying with all applicable Federal, state and local laws relating to its use of consumer credit information.

(c) The information the NRC discloses to the consumer reporting agency is limited to --

(1) Information necessary to establish the identity of the individual debtor, including name, address, and taxpayer identification number;

(2) The amount, status, and history of the debt; and

(3) The NRC activity under which the debt arose.

13. Section 15.29 is revised to read as follows:

§ 15.29 Suspension or revocation of license.

The NRC may suspend or revoke any license or approval which the NRC has granted to the debtor for any

inexcusable, prolonged, or repeated failure of the debtor to pay a delinquent debt. Before suspending or revoking any license or approval for failure to pay a debt, the NRC shall issue to the debtor an Order to Show Cause (by either registered or certified mail) why the license or other privilege should not be suspended or revoked. The NRC shall allow the debtor no more than 30 days to pay the debt in full, including applicable interest, penalties, and administrative costs of collection of the delinquent debt. The NRC may suspend or revoke the license or approval at the end of this period. If a license is revoked under authority of this part, a new application, with appropriate fees, must be made to the NRC. The NRC may not consider an application unless all previous delinquent debts of the debtor to the NRC have been paid in full.

14. In § 15.31, paragraphs (a) and (b) are revised to read as follows:

§ 15.31 Disputed debts.

(a) A debtor who disputes a debt shall explain why the debt is incorrect in fact or in law within 30 days from the date that the initial demand letter was mailed or hand-delivered. The debtor may support the explanation by affidavits, cancelled checks, or other relevant evidence.

(b) If the debtor's arguments appear to have merit, the NRC may extend the interest waiver period as described in § 15.37 (j) pending a final determination of the existence or amount of the debt.

* * * * *

15. Section 15.32 is added to read as follows:

§ 15.32 Contracting for collection services.

The NRC may contract for collection services in order to recover delinquent debts. However, the NRC retains the authority to resolve disputes, compromise claims, suspend or terminate collection action, and initiate enforced collection through litigation. When appropriate, the NRC shall contract for collection services in accordance with the guidance and standards contained in 4 CFR 102.6.

16. In § 15.33, paragraphs (a), (b), and (c) are revised; paragraph (d) is redesignated as paragraph (e), and a new paragraph (d) is added to read as follows:

§ 15.33 Collection by administrative offset.

(a) The NRC may administratively undertake collection by offset on each claim which is liquidated or certain in amount in accordance with the guidance and standards contained in 4 CFR 102.2, 102.3, and 102.4 and 5 U.S.C. 5514, as applicable. The NRC may not initiate administrative offset to collect a debt more than 10 years after the Government's right to the debt first accrued, unless facts material to the Government's right to collect the debt were not known and could not reasonably have been known to the NRC or collection of "approval" fees has been deferred under 10 CFR part 170. If the collection of "approval" fees has been deferred, the ten-year period begins to run at the end of the deferral period.

(b) Collection by administrative offset of amounts payable from the Civil Service Retirement and Disability Fund, the Federal Employees Retirement System or other similar funds is made pursuant to 4 CFR 102.4 and the provisions of paragraph (d) of this section.

(c) Salary offset is governed by 5 U.S.C. 5514.

(d) The following procedures apply when the NRC seeks to collect a debt by offset against any payment to be made to a debtor or against the assets of a licensee.

(1) Before the offset is made, the NRC shall provide the debtor with a written notice of the nature and amount of the debt and --

(i) Notice of the NRC's intent to collect the debt by offset;

(ii) An opportunity to inspect and copy NRC records pertaining to the debt;

(iii) An opportunity to request reconsideration of the debt by the NRC or, if provided for by statute, waiver of the debt;

(iv) An opportunity to enter into a written agreement with the NRC to repay or pay the debt, as the case may be;

(v) An explanation of the debtor's rights under this subpart; and

(vi) An opportunity for a hearing when required under the provisions of 4 CFR 102.3(c).

(2) If the NRC learns that other agencies of the Federal government are holding funds payable to the debtor, the NRC shall provide the other agencies with written certification that the debt is owed to the NRC and that the NRC has complied with the provisions of 4 CFR 102.3. The NRC shall request that funds due the debtor which are necessary to offset the debt to the NRC be transferred to the NRC.

(3) The NRC may accept a repayment or payment agreement, as appropriate, in lieu of offset, but will do so only after balancing the Government's interest in collecting the debt against fairness to the debtor. If the debt is delinquent and the debtor has not disputed its existence or amount, the NRC may accept a repayment or payment agreement in lieu of offset only if the debtor is able to establish under sworn affidavit that offset would result in undue financial hardship or would be against equity and good conscience.

(4) Administrative offset is not authorized with respect to --

(i) Debts owed by any State or local government;

(ii) Debts once they become subject to the salary offset provisions of 5 U.S.C. 5514; or

(iii) Any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by another statute.

(5) The NRC reserves the right to take any other action in respect to offset as is permitted under 4 CFR 102.3.

* * * * *

17. Section 15.35 is amended by revising paragraphs (a) and (b) to read as follows:

§ 15.35 Payments.

(a) *Payment in full.* The NRC shall make every effort to collect a claim in full before it becomes delinquent. If a claim is paid in one lump sum after it becomes delinquent, the NRC shall impose charges for interest, penalties, and administrative costs as specified in § 15.37.

(b) *Payment in installments.* If a debtor furnishes satisfactory evidence of inability to pay a claim in one lump sum, payment in regular installments may be arranged. Evidence may consist of a financial statement or a signed statement that the debtor's application for a loan to enable the debtor to pay the claim in full was rejected. Except for a claim described at 5 U.S.C. 5514, all installment payment arrangements must be in writing and require the payment of interest, and administrative charges.

(1) Installment note forms, including confess-judgment notes, may be used. The written installment agreement must contain a provision accelerating the debt payment in the event the debtor defaults. If the debtor's financial statement discloses the ownership of assets which are free and clear of liens or security interests, or assets in which the debtor owns an equity, the debtor may be asked to secure the payment of an installment note by executing a Security Agreement and Financing Statement transferring to the United States a security interest in the assets until the debt is discharged.

(2) If the debtor owes more than one debt and designates how a voluntary installment payment is to be applied among those debts, the NRC shall follow that designation. If the debtor does not designate the application of the payment, the NRC shall apply the payment to the various debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case.

* * * * *

18. Section 15.37 is revised to read as follows:

§ 15.37 Interest, penalties, and administrative costs.

(a) The NRC shall assess interest, penalties, and administrative costs on debts owed to the United States Government in accordance with the guidance provided under the Federal Claims Collection Standards, 4 CFR 102.13 unless otherwise directed by statute, regulation, or contract.

(b) Before assessing any charges on delinquent debts, the NRC shall mail or hand-deliver a written notice to the debtor explaining its requirements concerning these charges under 4 CFR 102.2 and 102.13.

(c) Interest begins to accrue from the date on which the initial written demand, advising the debtor of the interest requirements, is first mailed or hand delivered to the debtor unless a different date is specified in a statute, regulation, or contract.

(d) The NRC shall assess interest based upon the rate of the current value of funds to the United States Treasury (the Treasury tax and loan account rate) prescribed for the current quarter and published in the **Federal Register** and the Treasury Financial Manual Bulletins, unless a different rate is prescribed by statute, regulation, or contract.

(e) Interest is computed only on the principal of the debt and the interest rate remains fixed for the duration of the indebtedness, unless a debtor defaults on a repayment agreement and seeks to enter into a new agreement.

(f) The NRC shall assess against a debtor charges to cover administrative costs incurred as a result of a delinquent debt. Administrative costs may include costs incurred in obtaining a credit report or in using a private debt collector, to the extent they are attributable to the delinquency.

(g) The NRC shall assess a penalty charge of 6 percent a year on any portion of a debt that is delinquent for more than 90 days. The charge accrues retroactively to the date that the debt became delinquent.

(h) Amounts received by the NRC as partial or installment payments are applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to outstanding principal.

(i) The NRC shall waive collection of interest on the debt or any portion of the debt which is paid in full within 30 days after the date on which interest began to accrue.

(j) The NRC may waive interest during the period a debt disputed under § 15.31 is under investigation or review by the NRC. However, this additional waiver is not automatic and must be requested before the expiration of the initial 30-day waiver period. The NRC may grant the additional waiver only when it finds merit in the explanation the debtor has submitted under § 15.31.

(k) The NRC may waive the collection of interest, penalties, and administrative costs if it finds that one or more of the following conditions exist:

(1) The debtor is unable to pay any significant sum toward the debt within a reasonable period of time;

(2) Collection of interest, penalties, and administrative costs will jeopardize collection of the principal of the debt;

(3) The NRC is unable to enforce collection in full within a reasonable time by enforced collection proceedings; or

(4) Collection would be against equity and good conscience or not in the best interests of the United States, including the situation in which an administrative offset or installment payment agreement is in effect.

19. Section 15.38 is added to read as follows:

§ 15.38 Use of credit reports.

The NRC may institute a credit investigation of the debtor at any time following receipt of knowledge of the debt in order to aid NRC in making appropriate determinations as to:

(a) The collection and compromise of a debt;

(b) The collection of interest, penalties, and administrative costs;

(c) The use of administrative offset;

(d) The use of other collection methods; and

(e) The likelihood of collecting the debt.

20. Section 15.41 is revised to read as follows:

§ 15.41 When a claim may be compromised.

The NRC may compromise a claim not in excess of the monetary limitation if it has not been referred to GAO or to DOJ for litigation. Only the Comptroller General of the United States or designee may effect the compromise of a claim that arises out of an exception made by the GAO in the account of an accountable officer, including a claim against the payee, prior to its referral by GAO for litigation.

21. In § 15.43, paragraph (b) is amended by inserting a comma between the words "claimed" and "either," by revising paragraphs (c) and (d), and by adding paragraph (e) to read as follows:

§ 15.43 Reasons for compromising a claim.

* * * * *

(c) The cost of collecting the claim does not justify the enforced collection of the full amount. The NRC shall apply this reason for compromise in accordance with the guidance in 4 CFR 103.4.

(d) The NRC shall determine the debtor's inability to pay, the Government's ability to enforce collection, and the amounts which are acceptable in compromise in accordance with the Federal Claims Collection Standards, 4 CFR part 103.

(e) Compromises payable in installments are discouraged, but, if necessary, must be in the form of a legally enforceable agreement for the reinstatement of the prior indebtedness less sums paid thereon. The agreement also must provide that in the event of default --

(1) The entire balance of the debt becomes immediately due and payable; and

(2) The Government has the right to enforce any security interest.

§ 15.45 [Amended]

22. In the first sentence of § 15.45, the word "or" is corrected to read "nor."

23. Section 15.51 is revised to read as follows:

§ 15.51 When collection action may be suspended or terminated.

The NRC may suspend or terminate collection action on a claim not in excess of the monetary limitation, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments, if any, if it has not been referred to GAO or to DOJ for litigation.

24. Section 15.61 is amended by redesignating paragraph (b) as paragraph (c), revising paragraph (a), and adding new paragraphs (b) and (d) to read as follows:

§ 15.61 Prompt referral.

(a) A claim which requires enforced collection action is referred to GAO or

to DOJ for litigation. A referral is made as early as possible consistent with aggressive collection action and in any event well within the time required to bring a timely suit against the debtor. Ordinarily, referrals are made within one year of the NRC's final determination of the fact and the amount of the debt.

(b) When the merits of the NRC's claim, the amount owed on the claim, or the propriety of acceptance of a proposed compromise, suspension, or termination of collection actions is in doubt, the NRC shall refer the matter to the GAO for resolution and instructions prior to proceeding with collection action and/or referral to DOJ for litigation.

* * * * *

(d) Once a claim has been referred to GAO or to DOJ under this subpart, the NRC shall refrain from having any contact with the debtor and shall direct the debtor to GAO or DOJ, as appropriate, when questions concerning the claim are raised by the debtor. The NRC shall immediately advise GAO or DOJ, as appropriate, of any payments by the debtor.

§ 15.63 [Removed]

25. Section 15.63 is removed.

26. Section 15.67 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c), respectively, and by adding new paragraphs (a) and (d) to read as follows:

§ 15.67 Referral to the Department of Justice.

(a) Claims for which the gross original amount is over $100,000 must be referred to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC 20530. Claims for which the gross original amount is $100,000 or less must be referred to the United States Attorney in whose district the debtor can be found.

* * * * *

(d) Claims must be referred to the Department of Justice in the manner prescribed by 4 CFR 105.2. Care must be taken to preserve all files, records, and exhibits on claims referred under paragraphs (a) and (b) of this section.

Dated at Rockville, Maryland, this 27th day of July 1990.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 90-18511 Filed 8-8-90; 8:45 am]

BILLING CODE 7590-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-CE-06-AD; Amendment 39-6674]

Airworthiness Directives; Piper Model PA-34 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Piper Model PA-34 airplanes, which supersedes AD 81-12-04, Amendment 39-4129, and requires the replacement of the rudder torque tube fitting in accordance with Piper Service Bulletin (SB) 899, unless already accomplished. On numerous PA-34 airplanes, the aluminum rudder torque tube fitting was found cracked through the attachment holes, and some were found with elongated holes. This condition may lead to the loss of rudder effectiveness and possible loss of rudder control. The replacement of the rudder torque tube fitting with a steel part will prevent failure of the torque tube fitting and possible loss of rudder control.

EFFECTIVE DATES: September 14, 1990.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Piper SB 899, dated February 10, 1989, applicable to this AD may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (407) 567-4361, or may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Dave Cundy, Aerospace Engineer, Airframe Branch, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; Telephone (404) 991-2910.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD requiring the replacement of the rudder torque fitting and attaching hardware on PA-34 airplanes in accordance with Piper SB 899 on all Piper PA-34 airplanes was published in the **Federal Register** on February 28, 1990 (55 FR 7004). The proposal was prompted by a significant number of Service Difficulty Reports (SDR's) pertaining to cracked rudder torque tube fittings on PA-34 airplanes. This condition may result in a loss of rudder effectiveness or possible loss of rudder control on these airplanes.

Background

The SDR's prior to 1981 led to the issuance of Piper SB 699 and AD 81-12-04, Amendment 39-4129, which specifically applied to PA-28RT-201, PA-28RT-201T, PA-34-200, and PA-34-200T model airplanes. The AD required the replacement of the rudder torque tube fitting, if necessary, with a "like part", that is, an aluminum fitting, P/N 96319-00V, after a one-time visual inspection. The rudder torque tube fittings on the PA-28 model airplanes were to be inspected in accordance with SB 699 to determine if the fittings were cracked and/or the holes elongated. The fittings were to be reinstalled or replaced with new fittings (P/N 96319-00V) and properly retorqued. Since that time, there have not been any further occurrences of cracked fittings or elongated holes in rudder torque tube fittings on the PA-28 fleet. Based on the satisfactory service history of this part, PA-28's and the requirements of SB 699 are not included in this AD.

Since 1984, approximately 48 SDR's were concerned with PA-34 airplanes, and many of those involved the PA-34-220T, which was not included either in SB 699 or AD 81-12-04. Piper Aircraft Corporation has subsequently issued SB 899, which requires replacing the aluminum rudder torque tube fitting on all PA-34 airplanes, including the model PA-34-220T airplane, with a steel fitting (P/N 96319-802).

This AD, which supersedes AD 81-12-04, requires the replacement of the rudder torque tube fitting in accordance with SB 899 for all PA-34-200, PA-34-200T, and PA-34-220T airplanes. Compliance will eliminate excess rudder play and possible loss of rudder effectiveness or control.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal. Accordingly, the proposal is adopted without change. The FAA has determined that this regulation involves approximately 2500 airplanes at a one-time cost of approximately $150 for each airplane, or a total one-time fleet cost of $375,000. The cost of complying with the proposed AD is so small that it will not have a significant financial impact on any small entities owning or operating the affected airplanes. The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Piper Aircraft Corp.: Applies to PA–34–200 Serial Numbers 34–7250001 through 34–7450220, PA–34–200T Serial Numbers 34–7570001 through 34–8170092, and PA–34–220T Serial Numbers 34–8133001 through 34–8533012 airplanes certified in any category.

Compliance: Required within fifty (50) hours time-in-service but not to exceed one year after the effective date of this AD, unless already accomplished.

To prevent loss of rudder effectiveness or possible loss of control, accomplish the following:

(a) On all PA–34–200, PA–34–200T, and PA–34–220T models, visually inspect the rudder sector, rudder torque tube, attachment fitting, and hardware. Replace aluminum fitting (P/N 96319–00V) with steel fitting (P/N 96319–802) and other parts as required in accordance with Piper SB 899, dated February 10, 1989.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An alternate method of compliance or adjustment of the compliance time which provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and send it to the Manager, Atlanta Aircraft Certification Office. All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment supersedes AD 81–12–04, Amendment 39–4129.

This amendment becomes effective on September 14, 1990.

Issued in Kansas City, Missouri, on July 12, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–18721 Filed 8–8–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 95

[Docket No. 26307; Amdt. No. 358]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: August 23, 1990.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SE., Washington, DC 20591; telephone: (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Issued in Washington, DC on August 1, 1990.

Daniel C. Beaudette,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation

Regulations (14 CFR part 95) is amended as follows effective at 0901 GMT:

PART 95—[AMENDED]

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354, and 1510; 49 U.S.C. 106(G) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(B)(2).

2. Part 95 is amended to read as follows:

BILLING CODE 4910-13-M

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 358 EFFECTIVE DATE, AUGUST 23, 1990

FROM	TO	MEA

§95.1001 DIRECT ROUTES-U.S.

IS AMENDED TO READ IN PART

BRILO, CA FIX	YAGER, CA FIX	7000
MENDOCINO, CA VORTAC	BRILO, CA FIX	*11000
*7500 - MOCA		MAA-24000

§95.1001 DIRECT ROUTES-U.S.

ATLANTIC ROUTES

AR 8 IS ADDED TO READ

ELIZABETH CITY, NC VOR/DME	BACUS, NC FIX	21000
		MAA-41000

§95.6001 VOR FEDERAL AIRWAY 1

IS AMENDED TO READ IN PART

KINSTON, NC VORTAC	*ZAGGY, NC FIX	2000
*7000 - MRA		
*7000 - MCA ZAGGY FIX, E BND		

§95.6012 VOR FEDERAL AIRWAY 12

IS AMENDED TO READ IN PART

HARRISBURG, PA VORTAC	BOBSS, PA FIX	4000
BOBSS, PA FIX	BOYER, PA FIX	6000
BOYER, PA FIX	POTTSTOWN, PA VORTAC	3000

§95.6013 VOR FEDERAL AIRWAY 13

IS AMENDED TO READ IN PART

MC ALLEN, TX VOR/DME	HARLINGEN, TX VOR/DME	1800
HARLINGEN, TX VOR/DME	RAYMO, TX FIX	1600

§95.6017 VOR FEDERAL AIRWAY 17

IS AMENDED TO READ IN PART

HARLINGEN, TX VOR/DME	MC ALLEN, TX VOR/DME	1800

§95.6026 VOR FEDERAL AIRWAY 26

IS AMENDED TO READ IN PART

OBITT, SD FIX	ASTOE, SD FIX	*4600
*3200 - MOCA		

§95.6031 VOR FEDERAL AIRWAY 31

IS AMENDED TO READ IN PART

VINNY, MD FIX	*SUEDE, PA FIX	12000
*4500 - MRA		
SUEDE, PA FIX	GRAMO, PA FIX	12000
GRAMO, PA FIX	HARRISBURG, PA VORTAC	7000

§95.6033 VOR FEDERAL AIRWAY 33

IS AMENDED TO READ IN PART

VINNY, MD FIX	*SUEDE, PA FIX	12000
*4500 - MRA		
SUEDE, PA FIX	GRAMO, PA FIX	12000
GRAMO, PA FIX	HARRISBURG, PA VORTAC	7000

§95.6038 VOR FEDERAL AIRWAY 38

IS AMENDED TO READ IN PART

TRIDE, IL FIX	MEDAN, IL FIX	*4000
*2200 - MOCA		

§95.6039 VOR FEDERAL AIRWAY 39

IS AMENDED TO READ IN PART

HYPER, MD FIX	BINNS, MD FIX	4000
BINNS, MD FIX	*SUEDE, PA FIX	4500
*4500 - MRA		
SUEDE, PA FIX	DELRO, PA FIX	4500

§95.6099 VOR FEDERAL AIRWAY 99

IS AMENDED TO READ IN PART

VAGUS, CT FIX	ANNEI, CT FIX	7000

§95.6120 VOR FEDERAL AIRWAY 120

IS AMENDED TO READ IN PART

*SEATTLE, WA VORTAC	TAGOR, WA FIX	
	E BND	8500
	W BND	5000
*6300 - MCA SEATTLE VORTAC, E BND		

§95.6135 VOR FEDERAL AIRWAY 135

IS AMENDED TO READ IN PART

BEATTY, NV VORTAC	TEZUM, NV FIX	*11000
*10000 - MOCA		
TEZUM, NV FIX	TONOPAH, NV VORTAC	11000

FROM	TO	MEA

§95.6139 VOR FEDERAL AIRWAY 139

IS AMENDED TO READ IN PART

PEARS, NC FIX	SUNNS, NC FIX	*7000
*2000 - MOCA		

§95.6140 VOR FEDERAL AIRWAY 140

IS AMENDED TO READ IN PART

MONTEBELLO, VA VOR/DME	HOODE, VA FIX	5500
HOODE, VA FIX	CASANOVA, VA VORTAC	4000

§95.6143 VOR FEDERAL AIRWAY 143

IS AMENDED TO READ IN PART

HYPER, MD FIX	BINNS, MD FIX	4000
BINNS, MD FIX	*SUEDE, PA FIX	4500
*4500 - MRA		
SUEDE, PA FIX	DELRO, PA FIX	4500

§95.6160 VOR FEDERAL AIRWAY 160

IS AMENDED BY ADDING

*BLUE MESA, CO VORTAC	BALOO, CO FIX	
	NE BND	16300
	SW BND	12800
*12900 - MCA BLUE MESA VORTAC, NE BND		
BALOO, CO FIX	BALIF, CO FIX	
	NE BND	16300
	SW BND	15000
BALIF, CO FIX	*TREES, CO FIX	16300
*13200 - MCA TREES FIX, SW BND		

IS AMENDED TO READ IN PART

TREES, CO FIX	*PYNNE, CO FIX	15000
*12100 - MCA PYNNE FIX, SW BND		
PYNNE, CO FIX	DENVER, CO VORTAC	10800

FROM	TO	MEA

§95.6162 VOR FEDERAL AIRWAY 162

IS AMENDED TO READ IN PART

HARRISBURG, PA VORTAC	BOBSS, PA FIX	4000
BOBSS, PA FIX	EAST TEXAS, PA VORTAC	3000

§95.6323 VOR FEDERAL AIRWAY 323

IS AMENDED TO READ IN PART

NALIZ, GA FIX	HUSKY, GA FIX	*3000
*2100 - MOCA		

§95.6422 VOR FEDERAL AIRWAY 422

IS AMENDED TO READ IN PART

BEBEE, IL FIX	*NILES, IL FIX	3300
*3000 - MCA NILES FIX, N BND		

§95.6469 VOR FEDERAL AIRWAY 469

IS AMENDED TO READ IN PART

BADDI, PA FIX	HARRISBURG, PA VORTAC	4000
HARRISBURG, PA VORTAC	JOANE, PA FIX	4000
JOANE, PA FIX	DUPONT, DE VORTAC	3000

§95.6481 VOR FEDERAL AIRWAY 481

IS AMENDED TO READ IN PART

KLUNG, AK FIX	GULKANA, AK VORTAC	7000
DOZEY, AK FIX	*PAXON, AK FIX	7000
*9500 - MCA PAXON FIX, N BND		
PAXON, AK FIX	*DONEL, AK FIX	**12000
*10000 - MCA DONEL FIX, S BND		
**11500 - MOCA		
DONEL, AK FIX	*BIG DELTA, AK VORTAC	6000
*7600 - MCA BIG DELTA VORTAC, S BND		

§95.6515 VOR FEDERAL AIRWAY 515

IS AMENDED TO READ IN PART

MERIE, AK FIX	*BIG DELTA, AK VORTAC	12000
*8100 - MCA BIG DELTA VORTAC, S BND		

FROM	TO	MEA	MAA
§95.7103 JET ROUTE NO. 103			
	IS AMENDED TO DELETE		
ST PETERSBURG, FL VORTAC	ORLANDO, FL VORTAC	18000	45000
ORLANDO, FL VORTAC	ORMOND BEACH, FL VORTAC	18000	45000
§95.7152 JET ROUTE NO. 152			
	IS AMENDED TO READ IN PART		
JOHNSTOWN, PA VORTAC	HARRISBURG, PA VORTAC	20000	45000
§95.7534 JET ROUTE NO. 534			
	IS AMENDED BY ADDING		
IWACK, WA FIX	BELLINGHAM, WA VORTAC	18000	45000

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
	V-449		
	IS AMENDED BY ADDING		
HARRISBURG, PA VORTAC	JOANE, PA FIX	32	HARRISBURG

[FR Doc. 90-18723 Filed 8-8-90; 8:45 am]
BILLING CODE 4910-13-C

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 787

[Docket No. 81147-0179]

RIN 0069-AA38

Voluntary Self-Disclosures of Export Violations

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: On March 6, 1989, the Bureau of Export Administration (BXA) published a proposed rule (54 FR 9233) that would amend the Export Administration Regulations (EAR) by adding a new § 787.15 addressing voluntary self-disclosure of export violations. Having reviewed and considered the comments on the proposed rule, BXA is now issuing this rule in final form that adds new § 787.15 "Voluntary Self-Disclosure" into the EAR. (The title that appeared in the proposed notice, "Voluntary Self Discipline [sic]," was a typographical error.)

Section 787.15 sets forth the following: The intent of the new section; limitations under which this new section is applicable; how to provide voluntarily self-disclosed information to the Office of Export Enforcement (OEE); the range of actions OEE could take in response to the received information; criteria used to determine OEE's action; and treatment of unlawfully exported commodities after voluntary self-disclosure. The intended effect of this rule is to reduce public uncertainty concerning the effect that a voluntary self-disclosure may have on the treatment of violations.

EFFECTIVE DATE: This rule is effective August 9, 1990.

FOR FURTHER INFORMATION CONTACT: Anstruther Davidson, Office of the Assistant Secretary for Export Enforcement, Bureau of Export Administration, U.S. Department of Commerce, room 3727, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Telephone: (202) 377-1564.

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the Export Administration Act of 1979 (EAA), BXA is authorized to issue and to enforce the EAR. Part 787 of the EAR, "Enforcement," identifies those actions that are considered to be violations of the EAR, imposes recordkeeping requirements for transactions subject to these Regulations, and sets forth sanctions that may be imposed by OEE for violations.

Based upon inquiries that suggested public uncertainty concerning the effect that a voluntary self-disclosure may have on the treatment of violations, BXA published the proposed rule with request for comments in order to reduce that uncertainty. At the end of the 30-day comment period, five comments were received. One additional comment was received after the comment period closed. All six comments were taken into account in developing this final rule.

Several commenters suggested that proposed § 787.15(a) be amended to indicate that voluntary disclosure would always be a mitigating factor. The final rule provides that a voluntary self-disclosure is a mitigating factor in determining what administrative sanction to impose, if any.

One commenter suggested that we amend the statement in the proposed § 787.15(b)(1) that this section applies only to information supplied for review and use by OEE. Although this precise change was not adopted, language was added to clarify that the rule applies only to the export control regulations and not to the provisions dealing with restrictive trade practices and boycotts.

Several commenters pointed out that proposed § 787.15(b)(2), that limited the applicability of the voluntary self-disclosure rule to situations in which information was not already known by any government agency, department or bureau, would, if taken literally, exclude nearly all disclosures from the rule. The information revealing the violation would likely be in the possession of some government agency in the form of Shipper's Export Declarations or other similar documents. To remedy this situation, the final rule limits the voluntary self-disclosure provisions to situations where the information is received by OEE before a government agency, department or bureau has learned of the information and commenced an inquiry or investigation into a possible violation of the EAR that involves the same facts as those disclosed.

Several comments indicated that the purpose of the initial disclosure in the proposed § 787.15(c) was unclear. The final rule includes language to clarify that, in addition to providing prompt notification to OEE in emergency situations, a purpose of the initial disclosure is to fix its date.

One commenter suggested that the scope of the review in the proposed § 787.15(c) should be limited to all transactions related to the reported violation as well as other transactions that might be indicated as suspect in the course of the review, rather than all transactions in which violations are suspect. The final rule clarifies that violations that are not disclosed do not receive the benefit of this rule.

Several commenters said that the five-year review period suggested in the proposed § 787.15(c)(3) was arbitrary and that the disclosure should make the decision as to the appropriate length of time for the review. This change was not adopted. The final rule, like the proposed rule, merely suggests, rather than mandates, five years as the appropriate scope of the review. It is based on the statute of limitations for administrative actions under the EAR.

There was some objection to the requirement that disclosures be made to OEE headquarters in Washington, DC. The final rule allows disclosures to be made at headquarters or at any OEE field office. Because the intent of the rule is to ensure that voluntary disclosures reach OEE in a prompt manner, the suggestion that disclosures could be made to a number of other government agencies, including some that have no enforcement responsibilities under the EAA, was not adopted.

One commenter doubted that OEE would ever issue a "no action is warranted" (see proposed § 787.15(d)) following its review of the disclosed information. The final rule replaces the possible response that "no action is warranted" with one stating that, based on the facts disclosed, "no action will be taken".

BXA decided to eliminate § 787.15(e)(6) of the proposed rule. The proposal made the giving of information about the violations of other parties a mitigating factor. OEE relies to a great extent on information that members of the public give relating to the suspicious actions of others. However, BXA did not want a misapprehension that one who voluntarily discloses information under this rule is under a *de facto* requirement to seek out another's wrongdoing to report with his own.

One commenter suggested that the proposed § 787.15(e)(4) should refer to "knowledge" of the EAR on the part of the person(s) responsible for the violation rather than the persons making the disclosure because, in large organizations, these may be different persons. This change was adopted. The word "person" was changed also to read "person or firm". The latter term is defined in § 770.2 of the EAR. This change states more clearly the intention of OEE that it is the state of knowledge of the entity that committed the

violation, not the state of knowledge of the person who discloses information, that is the aggravating or mitigating factor.

Several commenters recommended that the rule more explicitly describe the degree of mitigation that would result from a voluntary self-disclosure, either by fixing a specific percentage of reduced penalty, setting a maximum penalty for violations that were voluntarily disclosed, or establishing criteria that would define violations for which no administrative charging letter would be issued. This suggestion was not adopted. Preset penalties do not reflect adequately the complexity of the issues involving export control violations.

The proposed rule set forth certain functions to be performed by the OEE and others to be performed by the Office of Export Intelligence. The final rule consolidates all of these functions under the OEE.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule contains a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h) *et seq.*) and approved by the Office of Management and Budget under Control No. 0694–0058. Public reporting for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimates or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Security and Management Support, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: Paperwork Reduction Project—0694–0058).

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a)), no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. Section 13(a) of the EAA of 1979, as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the APA (5 U.S.C. 553), including those requiring public comment, and a delay in effective date. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a control on exports. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Nevertheless, consistent with the intent of Congress set forth in section 13(b) of the EAA to provide public participation in rulemaking, these regulations were issued in proposed form and comments were considered in developing final regulations.

5. This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

List of Subjects in 15 CFR Part 787

Boycotts, Exports, Enforcement, Criminal and administrative sanctions, Penalties, Violations, Reporting and recordkeeping requirements.

PART 787—[AMENDED]

Accordingly, part 787 of the EAR (15 CFR parts 768–799) is amended as follows:

1. The authority citation for 15 CFR part 787 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97–145 of December 29, 1981, by Pub. L. 100–418 of August 23, 1988 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985; Pub. L. 95–223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99–440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*) and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

2. A new § 787.15 is added to read as follows:

§ 787.15 Voluntary self-disclosure.

(a) *General Policy.* The Department strongly encourages the disclosure of information to the Office of Export Enforcement by persons or firms who believe that they may have violated the export control provisions of the Act or any regulations, order, license or other authorization issued under the Act. Voluntary self-disclosure is a mitigating factor in determining the administrative sanctions, if any, imposed by the Office of Export Enforcement.

(b) *Limitations.* (1) The provisions of this section do not apply to disclosures of violations of section 8 of the Act, Foreign Boycotts, or part 769 of this subchapter, Restrictive Trade Practices or Boycotts.

(2) The provisions of this section apply only when information is provided to the Office of Export Enforcement for its review in determining whether to take administrative action under part 788 of this subchapter concerning violations of the export control provisions of the Act and the Regulations.

(3) The provisions of this section apply only when information is received by the Office of Export Enforcement for review prior to the time that either the Office of Export Enforcement or another agency, bureau or department of the United States Government has learned of the same or substantially similar information from another source and commenced an investigation or inquiry that involves that information, and that is intended to determine whether the Act or any regulation, license, order or other authorization issued under the Act has been violated.

(4) While voluntary self-disclosure is a mitigating factor in determining the administrative sanctions, if any, imposed by the Office of Export Enforcement, it is a factor that is considered together with all of the other factors in the case. The weight given to voluntary self-disclosure is solely within the discretion of the Office of Export Enforcement and it is possible that the mitigating effect of voluntary self-disclosure could be outweighed by aggravating factors. It is also possible that the transactions that are the subject of voluntary self-disclosure could be referred to the Justice Department for criminal prosecution. In such a case, the Office of Export Enforcement would notify the Justice Department of the fact of the voluntary self-disclosure, but the Justice Department is not required to give that fact any weight.

(5) A firm will not be deemed to have made a disclosure under this section unless the person making the disclosure did so with the full knowledge and authorization of the firm's senior management.

(6) The provisions of this section do not, nor should they be relied on to, create, confer, or grant any rights, benefits, privileges, or protection enforceable at law or in equity by any person, business, or entity in any civil, criminal, administrative, or other matter.

(c) *Information to be provided to the Office of Export Enforcement in connection with a voluntary self-disclosure. (1) General.* Any person or firm wanting to disclose information that constitutes a voluntary self-disclosure should, in the manner outlined below, initially notify the Office of Export Enforcement as soon as

possible after violations are discovered and then conduct a thorough review of all export-related transactions where violations are suspected.

(2) *Initial notification.* (i) Ordinarily, the initial notification should be in writing and be sent to one of the addresses set forth in § 787.15(c)(7). The notification should include the name of the person making the disclosure and a brief description of the suspected violations.

(ii) The Office of Export Enforcement recognizes that there will be situations where it will not be practical to make the initial notification in writing. For example, this could occur if a shipment leaves the United States without the required export license and there may still be an opportunity to prevent acquisition of the commodities or technical data by unauthorized persons. In these situations, the Office of Export Enforcement should be contacted promptly at one of the following telephone numbers:

Headquarters, Washington, DC (202) 377–8208,
Boston Field Office (617) 565–6030
Chicago Field Office (312) 353–6640
Dallas Field Office (214) 767–9294
Los Angeles Field Office (714) 251–9001
Miami Field Office (305) 523–1401
New York Field Office (212) 264–1365
San Jose Field Office (408) 291–4202
Washington, DC Field Office (703) 487–4950

(iii) The initial notification should describe the general nature and extent of the violations. If the person or firm making the disclosure subsequently completes the narrative account required by § 787.15(c)(3), the disclosure will be deemed to have been made on the date of the initial notification for purposes of § 787.15(b)(3). Upon completion of the review, the person should prepare and submit to the Office of Export Enforcement a detailed narrative account, supported by appropriate documentation, of all the suspected violations.

(3) *Narrative account.* After the initial notification, a thorough review should be conducted of all export-related transactions where possible violations are suspected. The Office of Export Enforcement suggests that the review cover a period of five years prior to the date of the initial notification. If the person making the disclosure undertakes a review of more limited scope than that suggested, he risks failing to discover violations that may later become the subject of an investigation. Any violations that are not voluntarily disclosed are not subject to this rule. However, the failure to make such disclosures will not be treated as a separate violation unless some other section of the Export Administration Regulations or other provision of law requires disclosure. Upon completion of the review, the Office of Export Enforcement should be furnished with a narrative account that sufficiently describes the suspected violations so that it can assess their nature and gravity. The narrative account should also describe the nature of the review conducted and measures that may have been taken to minimize the likelihood that violations will occur in the future. Where appropriate, the narrative account should include, but is not limited to:

(i) The kind of violation involved, *e.g.* an unlicensed shipment, dealing with a party denied U.S. export privileges;

(ii) An explanation of when and how the violations occurred;

(iii) The complete identities and addresses of all individuals and organizations, whether foreign or domestic, involved in the activities giving rise to the violations;

(iv) Export license numbers;

(v) Commodity classification numbers, product descriptions and quantities, and value in U.S. dollars of the commodities or technical data involved; and

(vi) A description of any mitigating circumstances.

(4) *Supporting documentation.* (i) The narrative account should be accompanied by copies of those documents that explain and support it. Where appropriate, the documentation should include, but is not limited to:

(A) Licensing documents such as export licenses, license applications, import certificates and end-user statements;

(B) Shipping documents such as Shipper's Export Declarations, air waybills and bills of lading; and

(C) Other documents such as telexes and other evidence of written or oral communications, internal memoranda, purchase orders, invoices, letters of credit and brochures.

(ii) Any other relevant documents must be retained by the person making the disclosure until the Office of Export Enforcement requests them or until a final decision on the disclosed information has been made. After a final decision, the documents should be handled in accordance with the recordkeeping rules set forth in § 787.13.

(5) *Certification.* A certification must be submitted stating that all of the representations made in connection with the voluntary self-disclosure are true and correct to the best of that person's knowledge and belief. Certifications made by a corporation or other organization should be signed by someone with the authority to do so. Section 787.5, relating to false or misleading representations, applies in connection with the disclosure of information under § 787.15.

(6) *Oral presentations.* The Office of Export Enforcement believes that oral presentations are generally not necessary to augment the written narrative account and supporting documentation.

Therefore, if the person making the disclosure believes a meeting is desirable, a request for one should be included with the disclosure.

(7) *Where to make voluntary self-disclosures.* The information constituting a voluntary self-disclosure or any other correspondence pertaining to a voluntary self-disclosure should be mailed to:

Office of Export Enforcement, Director, Intelligence Division, U.S. Department of Commerce, Ben Franklin Station, P.O. Box 70, Washington, DC 20044

or delivered to:

Office of Export Enforcement, Director, Intelligence Division, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., room H–6087B, Washington, DC 20230

Such information or correspondence may also be mailed or delivered to any of the following field offices:

Special Agent in Charge, Boston Field Office, Office of Export Enforcement, New Boston Federal Building, 10 Causeway Street, room 350, Boston, Massachusetts 02222

Special Agent in Charge, Chicago Field Office, Office of Export Enforcement, suite 300, 2400 E. Devon Avenue, Des Plaines, Illinois 60018

Special Agent in Charge, Dallas Field Office, Office of Export Enforcement, 525 Griffin Street, room 622, Box 122, Dallas, Texas 75202

Special Agent in Charge, Los Angeles Field Office, Office of Export Enforcement, 2601 Main Street, suite 310, Irvine, California 92714–6299

Special Agent in Charge, Miami Field Office, Office of Export Enforcement, 200 South Andrews Avenue, suite 500, Fort Lauderdale, Florida 33301

Special Agent in Charge, Office of Export Enforcement, New York Field Office, 26 Federal Plaza, room 3704, New York, New York 10278

Special Agent in Charge, Office of Export Enforcement, San Jose Field Office, U.S. Courthouse Building, 280 South First Street, room 4118, San Jose, California 95113–3002

Special Agent in Charge, Office of Export Enforcement, Washington, D.C.

Field Office, P.O. Box 1838, 8001 Forbes Place (5285 Port Royal Road), room 201, Springfield, Virginia 22151–0838.

(d) *Action by the Office of Export Enforcement.* After the Office of Export Enforcement has been provided with the required narrative and supporting documentation, it will acknowledge the disclosure by letter, provide the person making the disclosure with a point of contact, and take whatever additional action, including further investigation, it deems appropriate. As quickly as the facts and circumstances of a given case permit, the Office of Export Enforcement may then take any of the following actions:

(1) Inform the person or firm making the disclosure that, based on the facts disclosed, it plans to take no action;

(2) Issue a warning letter;

(3) Issue a proposed charging letter pursuant to § 788.17(b) of this subchapter and attempt to settle the matter;

(4) Issue a charging letter pursuant to § 788.4 of this subchapter if a settlement is not reached; or

(5) Refer the matter to the United States Department of Justice for criminal prosecution.

(e) *Criteria.* For purposes of determining what administrative action to take and what sanctions, if any, to impose, the fact that a voluntary self-disclosure has been made will be a mitigating factor. OEE will take that factor into account along with other mitigating and aggravating factors when determining what, if any, administrative sanction it will impose. The factors that OEE will consider are in its sole discretion. Some of the factors are:

(1) The extent to which the purpose of the control is undermined by the transaction;

(2) Whether the transaction would have been authorized had proper application been made;

(3) The quantity and value in U.S. dollars of the commodities or technical data involved;

(4) Why the violations occurred. For example, the Office of Export Enforcement may consider whether the violations were intentional or inadvertent; the degree to which the person or firm responsible for the violation making the disclosure was familiar with the Regulations; and whether the violator was the subject of prior administrative or criminal action under the Act;

(5) Whether, as a result of the information provided, the Office of Export Enforcement is able to prevent any commodities or technical data exported illegally from reaching unauthorized persons or destinations;

(6) The degree of cooperation with the ensuing investigation;

(7) Whether the person or firm has instituted or improved an internal compliance program to reduce the likelihood of future violations.

(f) *Treatment of unlawfully exported commodities after voluntary self-disclosure.* (1) In accordance with § 772.7(b) of this subchapter, if commodities or technical data that are the subject of a voluntary self-disclosure were exported without the required license, no such license will be issued after the fact.

(2) Reexport authorization for commodities or technical data that are the subject of a voluntary self-disclosure and that have been exported contrary to the provisions of the Act or the regulations may be requested from the Office of Export Licensing in accordance with the provisions of part 774 of this subchapter. If the applicant for reexport authorization knows or has reason to know that the commodities or technical data are the subject of a voluntary self-disclosure, the request should state that a voluntary self-disclosure was made in connection with the export of the commodities for which reexport authorization is sought.

(3) Section 787.4(a) prohibits any person from taking certain actions with knowledge or reason to know that a violation of the Act or the Regulations has occurred. Any person who has made a voluntary self-disclosure has reason to believe that a violation may have occurred. However, for those commodities or technical data that are the subject of a voluntary self-disclosure, permission to take any of the actions set forth in § 787.4(a), which may otherwise be prohibited, may be requested from the Office of Export Licensing. The Office of Export Licensing's decision on any such request will be made in consultation with the Office of Export Enforcement. Requests for permission should be sent to the Office of Export Licensing at the following address: Office of Export Licensing, P.O. Box 273, Washington, DC 20044.

Dated: August 1, 1990.

Quincy M. Krosby,

Assistant Secretary for Export Enforcement.

[FR Doc. 90-18477 Filed 8-8-90; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

[Docket No. 84N-0036]

Removal of Regulation Regarding Sulfonamide-Containing Drugs for Use in Food-Producing Animals

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is removing its regulation providing for interim marketing for drugs containing sulfamethazine, sulfaquinoxaline, sulfamerazine, sulfathiazole, sulfapyridine, or sulfanilamide for oral, injectable, intramammary, or intrauterine use in food-producing animals. After the removal of the regulation, any sulfanamide-containing drug product on the market intended for use in food-producing animals that is not the subject of an approved new animal drug application (NADA) will be in violation of the Federal Food, Drug, and Cosmetic Act (the act) and subject to regulatory action, unless covered by a statutorily-provided exception to the requirement of an NADA. The agency is taking this action following the publication in the **Federal Register** of September 15, 1988 (53 FR 35833), of a proposal to remove the regulation, and the publication in the **Federal Register** of July 5, 1984 (49 FR 27543), of a notice announcing plans to terminate interim marketing of the sulfonamide-containing drugs in question.

DATES: The removal of the regulation is effective November 7, 1990.

FOR FURTHER INFORMATION CONTACT: Philip J. Frappaolo, Center for Veterinary Medicine (HFV-240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4940.

SUPPLEMENTARY INFORMATION:

I. Summaries of and Responses to Comments

In the **Federal Register** of September 15, 1988 (53 FR 35833) (corrected 53 FR 46976; November 21, 1988), FDA proposed to remove § 510.450 (21 CFR 510.450), which provides for interim marketing for drugs containing sulfamethazine, sulfaquinoxaline, sulfamerazine, sulfathiazole, sulfapyridine, or sulfanilamide for oral, injectable, intramammary, or intrauterine use in food-producing

animals. The agency also made available through publication of the proposed rule a finding of no significant impact and the environmental assessment under 21 CFR part 25. The history of § 510.450 is discussed in detail in the preamble to the proposed rule and in FDA's July 5, 1984 (49 FR 27543) (corrected August 7, 1984; 49 FR 31444), notice announcing plans for the termination of interim marketing and requesting that the sponsors of the above new animal drugs submit data, revised labeling, and other information necessary for approval of an NADA. The proposal provided 60 days for interested persons to comment. The agency received 48 comments on the proposal. Most of the comments were from veterinarians and other individuals; the balance of the comments were from drug sponsors and distributors, professional and trade associations, and a university. FDA's summaries of and responses to the comments follow:

1. Many comments, particularly those from individuals, argued that FDA should not remove sulfonamide-containing drugs covered by § 510.450 from the market, claiming that they are of benefit to veterinarians, livestock producers, the products' sponsors, and the public.

FDA advises that the removal of § 510.450 will not result in the removal from the market of sulfonamide-containing drugs in general, but only of those sulfonamide-containing drug products that are covered by § 510.450 and that are not the subject of approved NADA's. For all but six uses of the sulfonamide-containing products covered by § 510.450, there are sulfonamide-containing drug products with approved NADA's (see the finding of no significant impact and environmental assessment for revocation of 21 CFR 510.450 and appendix C (Center for Veterinary Medicine, FDA, June 1988) made available with the proposed rule of September 15, 1988). The removal of § 510.450 will not prohibit the continued marketing of those products. Moreover, for four of the six uses for which there are no approved NADA's for sulfonamide-containing drug products, there are approved NADA's for nonsulfonamide drug products (lasalocid, penicillin-streptomycin, and oxytetracycline for use against various diseases in sheep). (Id. at pp. 14 to 22 and appendix C at pp. 6 and 18.)

There are only two uses of a sulfonamide-containing drug product covered by § 510.450, sulfaquinoxaline for use in the control of fowl cholera in pheasants and quail, for which there is no new animal drug with an approved NADA. However, there is a licensed vaccine for the prevention of acute fowl cholera in pheasants and quail. (Id., appendix C at p. 24.) The vaccine is not always effective, but when outbreaks occur, there are straightforward management procedures that limit the spread and recurrence of the disease. (Id. at p. 24.) Moreover, sulfaquinoxaline is not used extensively to treat fowl cholera in those species, and the termination of interim marketing is not expected to produce adverse economic or other harmful effects. (See paragraphs 11, 12, 13, and 15 of this preamble.)

The availability of substitute products aside, FDA emphasizes that, with exceptions not relevant here, sections 301, 501, and 512 of the act (21 U.S.C. 331, 351, and 360b) prohibit the introduction or delivery for introduction into interstate commerce of any new animal drug for which an approved NADA is not in effect. In light of the history of § 510.450 (see 53 FR 35833 and 35834), interim marketing of sulfonamide-containing drug products is no longer consistent with the law or justified by the facts. Absent the requisite showing of effectiveness and safety, including human food safety, in approved NADA's, claims that such products are beneficial and should therefore be allowed to remain on the market necessarily fall short of the mark. (See 53 FR 35833 at 35835.)

2. One comment noted that in the July 5, 1984, notice, FDA stated that the agency intended to publish a notice of opportunity for a hearing (NOOH) on denial of approval fo pending NADA's for sulfonamide-containing drugs for use in food-producing animals that are covered by § 510.450 at the same time the agency published a proposed rule to remove the regulation. The comment then argued that, having published the proposal before the NOOH, the agency should publish the NOOH forthwith.

FDA points out that the NOOH was published soon after the proposed rule. The comment period on the proposal closed on November 14, 1988 (53 FR 35833 at 35836). FDA's Center for Veterinary Medicine (CVM) published the NOOH on November 15, 1988 (53 FR 46050) (corrected 53 FR 49968, December 12, 1988; 53 FR 51950, December 23, 1988; 54 FR 5303, February 2, 1989).

3. One comment supported the proposed rule but urged CVM to carefully examine the need to maintain the availability of sulfathiazole and sulfapyridine. The comment also urged FDA to encourage manufacturers to seek NADA approval for alternative sulfonamide products. Another comment, opposed to the removal of § 510.450 in the near future, urged FDA to take appropriate steps to encourage drug sponsors to meet the requirements for NADA approval for sulfonamide-combination products as well as for sulfathiazole-containing products. According to this comment, one result of the removal of § 510.450 will be the elimination of sulfathiazole, which causes almost no food residue problems, in favor of sulfamethazine, which has been the source of violative residues in pork tissue for the past two decades.

As explained in paragraphs 1 and 5 of this preamble, FDA has concluded that interim marketing of sulfonamide-containing products, including sulfapyridine, sulfathiazole-containing products, and sulfonamide-combination products, is no longer consistent with the law or justified by the facts. The agency advises, however, that there are approved NADA's for sulfonamide- and nonsulfonamide-containing drug products for all the uses of the sulfonamides referred to in the comments (see paragraph 1 of this preamble), and that the removal of § 510.450 will not prohibit the continued marketing of those products. Although there are no approved NADA's for sulfathiazole dosage form drugs, there is an approved application for chlortetracycline, procaine penicillin, and sulfathiazole for various feed uses in swine. (See 21 CFR 558.155.) Thus, the removal of § 510.450 will not result in the elimination of sulfathiazole in favor of sulfamethazine. Additionally, FDA has been and is working with sponsors of NADA's for sulfathiazole-containing products and sulfonamide combination products to help them obtain the data necessary for NADA approval, as urged by the comments. Sponsors of NADA's for sulfapyridine have not been active in seeking approval of the applications.

4. One comment claimed that patents for all the sulfonamide-drugs covered by § 510.450 have expired, as a result of which sponsors that undertook the expense necessary to obtain approval of NADA's would be immediately deluged with competition from generic products that were shown to be bioequivalent to the pioneers. The comment argued that before removing § 510.450, FDA should promulgate regulations that would provide a period of protection for sponsors whose drug products meet the requirements for NADA approval. The comment also argued that the agency must provide a pathway for approval of dosage form therapeutic combination drug products similar to that provided for feed use production drugs before

sponsors of sulfonamide combination products can be expected to obtain NADA approval of such combinations.

Whether the patent and other laws adequately protect the sponsors referred to in the comment is for the Congress to decide; FDA's authority to provide such protection, by regulation or otherwise, is dependent upon legislation. Whether such sponsors are entitled to any period of exclusivity under title I of the Generic Animal Drug and Patent Term Restoration Act, Pub. L. 100–670, 102 Stat. 3971–3984, for products with approved NADA's has not yet been decided by the agency. As FDA advised in the July 5, 1984, notice (49 FR 27546), NADA's for combination sulfonamide-containing drug products that do not contain any other active ingredients will comply with the requirements set out in 21 CFR 514.1(b)(8)(v) for combination drug products without submission of data from studies that compare the combination of sulfonamides with the individual sulfonamides (because all sulfonamides have the same mechanism of action, each individual sulfonamide can be expected to contribute to the total effect of the combination drug product (49 FR 27546)). A combination dosage form drug product containing a sulfonamide and another ingredient, like combination feed use, production drug products, must satisfy those requirements.

5. Several comments, claiming that a good deal of research on various sulfonamide-containing products has been or is about to be undertaken to support NADA approvals, argued that it is unfair, unnecessary, and inappropriate for FDA to remove § 510.450 before the agency has reviewed ongoing research and other data from sponsors, in light of the fact the agency has permitted interim marketing of sulfonamide-containing drugs for many years. The comments suggested that FDA allow sponsors of interim-marketed sulfonamide-containing products time to finish or conduct research for which commitments have been made and submit complete NADA's for their products. The comments suggested that the agency withdraw the proposed rule, not rush to publish a final rule, or at a minimum establish an extended time period between publication of a final rule and its effective date. Additionally, one comment suggested that, rather than remove § 510.450 in its entirety, FDA could terminate interim marketing privileges for sulfonamide-containing products which are not now being marketed or for which no data have as yet been submitted or are being developed, establish criteria and timetable objectives for the remaining products and, on a continuing basis, revoke interim marketing privileges for products which do not meet those objectives. This comment also stated that in implementing such a program, FDA could exercise its discretion and revoke only those "interim approvals" for which there is a clear cut failure to proceed with an adequate program after methods and criteria have been established.

FDA disagrees with these comments. FDA first provided for interim marketing of sulfonamide-containing products under § 135.102 (redesignated as § 510.450) on October 23, 1970; 35 FR 16538. The removal of § 510.450 will become effective on November 7, 1990. (See paragraph 7 of this preamble.) Simply put, the agency has concluded that nearly 19 years of interim marketing are enough. To be sure, it took some time for FDA to complete the process of explaining to all sponsors, in a single document, the requirements for complete NADA's and the methodology to be followed in the requisite studies. But the act places on sponsors, not the agency, the burden of proving in NADA's the effectiveness and safety, including human food safety, of their products before marketing may begin. Furthermore, on May 23, 1986 (see 53 FR 46050), July 5, 1984 (49 FR 27543), and in the 1970's (see 53 FR 46056 to 46058), Refs. 1 through 142), FDA advised individual sponsors of pending NADA's for sulfonamide-containing drug products marketed under § 510.450 of the data, revised labeling, and other information necessary for NADA approval. The agency can no longer affirmatively permit the marketing of products where, as here, studies that should have been finished many years ago are merely said to be underway, about to begin, or the subject of commitments, and the sponsors in question have not yet submitted complete NADA's, let alone obtained approval of the applications. Additionally, with one exception (see paragraph 1 of this preamble), there are approved NADA's—held by other sponsors—for sulfonamide-containing and other drug products for all the uses for which sulfonamide-containing drugs have been marketed under § 510.450.

Even if FDA could affirmatively permit the continued marketing of products under the circumstances, it would not choose to do so. The agency has been unsuccessful in persuading sponsors of the NADA's covering interim marketing of sulfonamide-containing products of the need to complete the applications, and there is no reason to believe that delaying the removal of § 510.450 would prompt the submission of approvable NADA's. (Indeed, of the 142 pending NADA's covering interim marketing of sulfonamide-containing products under § 510.450 as of September 15, 1988, when FDA proposed to remove the regulation, 98 have been the subject of final orders refusing approval, either because the sponsors did not request a hearing in response to the NOOH (see 54 FR 10725; March 15, 1989) or because the sponsors did not submit any data, information, or analysis in support of their hearing requests (see 54 FR 22015; May 22, 1989)). Moreover, FDA could not pick and choose among pending NADA's on the basis of whether data are "being developed." Finally, establishing, monitoring, and enforcing still more criteria and timetable objectives (FDA set out criteria in July 1984 and again in May 1986 (see 53 FR 35833 and 35834)) would inevitably cause unjustifiable delays in terminating interim marketing under whatever remained of § 510.450.

Although the agency is removing § 510.450 in its entirety, FDA is reaffirming (see 53 FR 35834) that two provisions of the regulation continue to represent the agency's interpretation of the act, even though FDA is not retaining the provisions in the Code of Federal Regulations. Those provisions are as follows:

1. The presence of sulfonamide residues in food constitutes an adulteration within the meaning of section 402(a)(2)(D) of the act (21 U.S.C. 342(a)(2)(D)) in the absence of a tolerance for such residues established pursuant to section 512(i) of the act.

2. Sulfonamide-containing drugs for oral, injectable, intrauterine, or intramammary use in food-producing animals are new animal drugs for which approved new animal drug applications are required.

FDA is also reaffirming (see 49 FR 27544 and 27545 and § 510.450(a) (3) and (5) and (c) and (d)) that residue depletion data for each species, which are necessary to permit the assignment of preslaughter withdrawal periods that will ensure that edible products are free of above-tolerance residues, must be submitted for each NADA, and that those data must be collected by using a regulatory method reliable at least to the tolerance for residues of the drug in question.

None of the comments addressed either of the provisions of § 510.450 set out above, and none of the comments argued that residue depletion data are not required to show human food safety. The first provision simply reflects the language of section 402(a)(2)(D) of the

act and FDA's determination, made in the 1970's (see 38 FR 19404; July 20, 1973, and 39 FR 36633; July 22, 1974) and stated in the second provision, that sulfonamide-containing drugs for oral, injectable, intrauterine, or intramammary use in food-producing animals are new animal drugs for which approved NADA's are required. Although sulfonamide-containing drug products have been widely used for an extended period, neither that fact nor anecdotal evidence of safety and effectiveness precludes a finding of new animal drug status. See, e.g., *United States* v. *An Article of Drug * * * Neo-Terramycin*, 540 F. Supp. 363, 369–70 (N.D. Tex. 1982) *aff'd sub nom.*; *United States* v. *An Article of Drug Consisting of 4,680 Pails*, 725 F.2d 976, 987–88 n.26 (5th Cir. 1984); *United States* v. *Articles of Food and Drug * * * Coli-Trol 80*, 372 F. Supp. 915, 918–19 (N.D. Ga. 1974), *aff'd* 518 F.2d 743 (5th Cir. 1975); *United States* v. *Articles of Drug * * * Hormonin*, 498 F. Supp. 424, 432 (D.N.J. 1980), *aff'd without opinion*, 672 F.2d 904 (3d Cir. 1981). Rather, a new animal drug is any animal drug product, regardless of how old, about which insufficient published adequate and well-controlled clinical investigations exist upon which qualified experts can reach a consensus ("general recognition") that the product is safe (including human food safety) and effective. See *Weinberger* v. *Hynson, Westcott & Dunning, Inc.* 412 U.S. 609, 629–30 (1973); *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645, 653 (1973).

In order for an animal drug product to be generally recognized, there must be a consensus of expert opinion that the product is safe and effective for its labeled indications, that expert consensus must be based on adequate and well-controlled clinical investigations conducted on the product, and the investigations conducted on the product must be published in the scientific literature and available to experts generally. See, e.g., *United States* v. *Undetermined Quantities * * * Equidantin Nitrofurantoin Suspension*, 675 F.2d 994 (8th Cir. 1982), *cert. denied sub nom. Performance Products, Inc.* v. *United States*, 460 U.S. 1051 (1983) and cases cited there; *United States* v. *Seven Cardboard Cases * * * "100 Capsules NDC * * * Esgic * * * with Codeine Capsules, etc." and Forest Phamaceuticals, Inc.*, 716 F. Supp. 1221 (E.D. Mo. July 10, 1989) and cases cited there), appeal docketed, No. 89–2539EM (8th Cir. September 8, 1989).

An animal drug product that fails to meet any one of the three conditions is "new." (Ibid.) There are no published adequate and well-controlled investigations of any sulfonamide-containing drug product showing that the product is safe and effective for its labeled indications. Accordingly, sulfonamide-containing drugs for oral, injectable, intrauterine, or intramammary use in food-producing animals remain new animal drugs for which approved NADA's are required. (See ibid.) And, as noted above, residue depletion data for each species, collected using a regulatory method reliable at least to the tolerance for residues of the drug in question, must be submitted for each NADA to establish the human food safety of the product.

6. One comment argued that the "withdrawal of interim approval" for sulfonamide-containing products marketed under § 510.450 for which there are comparable competitive products with approved NADA's would raise significant questions of fairness under the principles allegedly established by an unpublished order in *Ivy-Reed Co., Inc.* v. *FDA*, Civil No. 78–2658 (D.N.J. 1978). This comment went on to argue that FDA should proceed uniformly against both "NADA approved and interim approved products simultaneously."

FDA disagrees. In the cited case, the agency had not approved an application for a generic product because of a safety concern but had not initiated proceedings to withdraw approval of the pioneer products, to which the same safety concern applied. Ivy-Reed brought suit against the agency, seeking an order directing FDA to approve the application. The court refused to issue the order sought by Ivy-Reed and ordered the agency to issue the notice required by section 512(c) of the act, either approving the application or giving Ivy-Reed notice of opportunity for a hearing (see 44 FR 1462 and 1463; January 5, 1979). Assuming for the sake of argument that *Ivy-Reed Co., Inc.* v. *FDA* was correctly decided, it is inapplicable here, where FDA is not refusing approval at all. Rather, it is discontinuing the interim marketing privileges it provided in § 510.450 for products that never had approved NADA's. And, the agency's scientific, policy, and legal reasons for removing § 510.450 are wholly irrelevant to the status of the "comparable competitive products with approved NADA's" referred to by the comment. The NADA's for those products met and continue to meet the requirements of the act and FDA's regulations. The sulfonamide-containing products marketed under § 510.450 do not have approved NADA's; whether they should ultimately be refused approval, as CVM has proposed (53 FR 46050), is a question to be resolved in the context of the NOOH and subsequent proceedings.

7. One comment argued that the long marketing history of sulfonamide-containing products governed by § 510.450, as well as the existence of "interim approvals," require that the regulation not be removed until after the sponsors are provided an NOOH and action is taken on the pending NADA's for the existing "interim approvals." Another comment suggested that FDA refrain from initiating regulatory action against a sponsor if a sponsor requests a hearing in response to the NOOH.

FDA rejects these comments. Section 510.450 provided interim marketing privileges rather than "approvals," interim or otherwise, and the agency has concluded that nearly 19 years of such privileges are enough. (See paragraphs 1 and 5 of this preamble.) Effective November 7, 1990, any sulfonamide-containing drug product on the market intended for use in food-producing animals that is not the subject of an approved NADA will be in violation of the act and subject to regulatory action, unless covered by a statutorily-provided exception to the requirement of an NADA. Such a drug product, in other words, will have the same status as any unapproved new animal drug product; the fact that an NADA is pending, i.e., has not been refused approval, will be irrelevant. It is only because of the extent and long history of use of sulfonamide-containing products covered by § 510.450 and of the need for an orderly transition to the use of approved new animal drugs that FDA has decided to make the removal of the regulation effective 90 days after the date of publication of this final rule in the **Federal Register**.

The NOOH was published on November 15, 1988 (53 FR 46050), and CVM is analyzing the data, information, and analyses submitted by sponsors in support of their requests for a hearing. Delaying the removal of § 510.450 until after action is taken on the pending NADA's would merely serve to extend privileges that FDA has concluded are no longer consistent with the law or justified by the facts, as would declining to take regulatory action simply because a sponsor requested a hearing.

8. One comment argued that certain issues surrounding the studies required to obtain approval of NADA's for sulfathiazole, sulfamethazine, and sodium sulfamethazine soluble powder should be considered and resolved

before FDA takes further action on its proposal to revoke § 510.450.

FDA disagrees. CVM reviews of NADA's for these new animal drugs, rather than this or any other rulemaking proceeding, are the proper forums in which to resolve such questions. For example, whether a cross-over bioavailability study of sulfathiazole is unnecessary under certain circumstances, as the comment maintains, is a scientific issue that cannot be resolved without the results of the sponsor's tissue residue study and detailed information about the formulation of the sponsor's sulfathiazole product.

9. One comment claimed that, until the July 5, 1984, notice, FDA did not advise sponsors of NADA's for sulfonamide-containing products marketed under § 510.450 of the requirements for complete NADA's and the methodology to be followed in the requisite studies. The comment argued that, under the circumstances, § 510.450 should not be withdrawn insofar as it applies to sponsors that have been and are now attempting to comply with the agency's requirements. Another comment claimed that the agency has never been forthcoming to these sponsors in advising them of acceptable tolerances. This comment argued that, under the circumstances, removal of the regulation would be inappropriate, unfair, arbitrary and capricious, premature, and unlawful.

FDA rejects these arguments, for the reasons stated in paragraphs 1 and 5 of this preamble. Further, the agency disagrees with the claims on which each of these arguments rests. The July 5, 1984, notice was preceded by extensive written communications concerning the requirements for complete NADA's and the deficiencies in pending applications. (See, e.g., Refs. 1 to 6; see also 53 FR 46056 to 46058, Refs. 1 to 27, 29 to 57, 61 to 86, 88, 90 to 142.) Also, tolerances that would be acceptable to the agency were set out in the mid-1970's (see, e.g., Refs. 2, 4, and 5), in a notice published in the **Federal Register** of September 26, 1980 (45 FR 63930), and in the July 5, 1984, notice (49 FR 27543 at 27544). Even if the claims were correct, however, that would not justify the continuation of interim marketing. (See paragraphs 1 and 5 of this preamble.)

10. One comment argued that pending NADA's for sulfonamide-containing drug products covered by § 510.450 constitute a "license" under the Administrative Procedure Act (APA) (5 U.S.C. 551(8)), and, as such, can be withdrawn only after the sponsors of the applications have been given an opportunity to achieve compliance with the act, relying on 5 U.S.C. 558(c).

FDA disagrees with this argument. The pending NADA's do not constitute a "license" under the APA. Even if they did however, the argument would fail. Section 558(c) of the APA provides in relevant parts:

> Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, the withdrawal, suspension, revocation, or annulment of a license is lawful only if, before the institution of Agency proceedings therefor, the licensee has been given—
>
> (1) Notice by the Agency in writing of the facts or conduct which may warrant the action; and
>
> (2) Opportunity to demonstrate or achieve compliance with all lawful requirements.

For the reasons set out in paragraphs 1 and 5 of this preamble, the removal of § 510.450 is a matter in which "public health, interest, [and] safety require otherwise." In any event, there can be no question that FDA has already provided the sponsors the written notice required by section 558(c)(1) (see paragraphs 5 and 9 of this preamble) and the opportunity to demonstrate or achieve compliance required by section 558(c)(2) (see paragraphs 1, 5, and 9 of this preamble).

11. Two comments argued that FDA's analysis of the economic effects of the removal of § 510.450 is misleading, incomplete, and defective because it does not take into account the cost to food producers or consumers of the removal from the market of sulfonamide-containing products marketed under the regulation. A third comment argued that the net result of the removal of the regulation may well be an increase in the cost of sulfonamide-containing products because of lack of competition in the marketplace.

FDA disagrees with these comments. Consumers and the agricultural sector should not be adversely affected by the removal of § 510.450 because substitute products and management practices are available for all the uses of the sulfonamide-containing drug products covered by the regulation. (See paragraph 1 of this preamble.) The cost of the substitute products and management practices is expected to approximate the cost of the sulfonamide-containing drug products covered by the regulation; the increased demand for substitute products anticipated to follow the removal of § 510.450 should provide sufficient competition among these products to counter any potential price increase. In any event, the cost of medications is only a minimal fraction of the overall cost of production for food animals. Thus, the cost of substitute products will not significantly alter either production costs or consumer prices. Also, FDA notes that, effective January 1, 1991, under the Generic Animal Drug and Patent Term Restoration Act, generic copies of pioneer products may be approved for marketing under abbreviated NADA's which do not require target animal safety or effectiveness data.

12. One comment argued that FDA did not sufficiently address the economic impact of the removal of § 510.450, claiming that the economic analysis set out in the preamble to the proposed rule does not meet the requirements of Executive Order 12291 or the Regulatory Flexibility Act, 5 U.S.C. 603(a), 605(b), and 612.

FDA disagrees. The comment ignores the appropriate application of Executive Order 12291, which requires a regulatory impact analysis only if an agency determines that a rule is a "major rule" as defined in section 1(b) of the Order. FDA has determined, according to the authority granted by the Executive Order, that the removal of § 510.450 is not such a rule. The agency examined the economic consequences of the termination of interim marketing at the time of the proposed rule, detailing in the preamble its projections of minimal economic impact. (See 53 FR 35833 at 35835.) The comment failed to provide FDA with information to justify a change in that analysis. Therefore, as provided in section 605(b) of the Regulatory Flexibility Act, the agency certifies that the removal of § 510.450 will not have a significant economic impact on a substantial number of small entities.

13. One comment argued that removal of § 510.450 would result in FDA's violating the Migratory Bird Treaty Act (the MBTA), 16 U.S.C. 703, citing *Alaska Fish & Wildlife Fed'n* v. *Dunkle*, 829 F.2d 933 (9th Cir. 1987), *cert. denied*, 108 S.Ct. 1290 (1988), *reh'g denied* 108 S.Ct. 2028 (1988) and *Defenders of Wildlife* v. *EPA*, 688 F. Supp. 1334 (D. Minn. 1988). This comment implied that an increased risk to MBTA-protected birds is possible in two respects: by increasing the risk of fowl cholera epidemics in carrier species with a resulting transmission of the disease to MBTA-protected birds, and by decreasing the antimicrobial effects of sulfonamide residues excreted into the environment of fowl cholera carriers.

FDA rejects these arguments, for several reasons: First, there is only one sulfonamide-containing drug covered by § 510.450, sulfaquinoxaline for use in the

control of fowl cholera in pheasants and quail, for which there is no new animal drug with an approved NADA (see paragraph 1 of this preamble); with respect to every other sulfonamide-containing drug, the removal of the regulation could not conceivably violate the MBTA because substitute sulfonamide and nonsulfonamide drug products with approved NADA's are available. (See id.) Second, sulfaquinoxaline is rarely used and, if used, does not eliminate fowl cholera from a population of birds. Rather, the drug reduces the effects of the disease and may create carriers of it. Third, sulfaquinoxaline does not prevent outbreaks of fowl cholera. The drug is used to control the severity of the disease after it has occurred or on premises where the disease organism is recurring. (See finding of no significant impact and environmental assessment at pp. 23 and 24.) Fourth, poultry management procedures effective in preventing fowl cholera are available to producers. (Id. at p. 24.) Fifth, the argument that in the absence of sulfaquinoxaline, fowl cholera will strike not only pheasants and quail but also MBTA-protected birds, is wholly speculative. Indeed, the comment was not supported by any data or other information. Fowl cholera is already present in wild bird populations, including MBTA-protected birds, where drug treatment is rarely if ever provided. One could as easily speculate that the incidence of fowl cholera in wild populations could be increased, rather than decreased, by the possible release of sulfaquinoxaline-treated carriers of the disease.

Neither of the cited cases mandates further action by the agency under the MBTA. In *Alaska Fish & Wildlife Fed'n* v. *Dunkle*, a Federal agency promulgated regulations that permitted hunting of migratory birds protected under the MBTA, in contravention of that statute. In *Defenders of Wildlife* v. *EPA*, birds protected by the MBTA were poisoned by strychnine, which was approved by the Environmental Protection Agency for use as a rodenticide. The court held that the agency was liable for a "taking" of MBTA-protected birds, as the birds had access to the strychnine and died after ingesting it. By contrast, pheasants and quail are not protected under the MBTA (see 50 CFR 10.1 *et seq.*) and, as noted above, the comment did not provide any evidence to indicate, let alone show, that with the unavailability of sulfaquinoxaline for the control of fowl cholera in pheasants and quail, the disease will become more prevalent among birds that are protected under the MBTA.

In preparing the environmental assessment, FDA projected maximum potential losses to the pheasant and quail populations following an outbreak of fowl cholera in compiling a "worst case scenario." Those losses were 6 million pheasants a year and 800,000 quail a year, assuming the absence of sulfaquinoxaline to control the disease. By definition, the "worst case scenario" is not an actual estimate of predicted losses in the pheasant and quail populations, and for the reasons set out in this paragraph, that scenario is anything but likely to occur. More to the point, even if the projected maximum potential losses were actual and accurate estimates, the harm would occur to birds that are not protected under the MBTA, not to birds that are protected under that statute, and the comment failed to establish any link between harm to pheasants and quail, on the one hand, and harm to MBTA-protected birds, on the other.

In FDA's view, if there is a market for new animal drugs to control fowl cholera in pheasants and quail, an NADA will be developed for a drug product with those indications. (See finding of no significant impact and environmental assessment at pp. 26 and 27.) Indeed, the literature reveals that several drugs, including a number of sulfonamides, are being suggested as effective in controlling the disease in both pheasants and quail. (Id. at p. 27.)

14. One comment argued that FDA is obligated to consult with the Fish and Wildlife Service of the Department of Interior before removing § 510.450, to comply with the Endangered Species Act, 16 U.S.C. 1536(a)(1)(2), 1538(a)(1)(b), citing *TVA* v. *Hill*, 437 U.S. 153 (1978) and *Sierra Club* v. *Marsh*, 816 F.2d 1376 (9th Cir. 1987). The comment claimed that, in the absence of sulfaquinoxaline, Endangered Species Act-protected birds will be endangered either directly or through transmission of fowl cholera by pheasant and quail carriers. The comment then argued that this possibility mandates FDA consultation with the Fish and Wildlife Service before removing § 510.450.

FDA disagrees. The cited cases merely hold that a Federal agency is subject to the Endangered Species Act, which does not require additional action by the agency here. FDA has incorporated all Endangered Species Act requirements in 21 CFR 25.5(c)(10) and the Health and Human Services General Administration Manual, part 30, and these requirements have been satisfied. FDA will consult with the Fish and Wildlife Service on any FDA proposal that may affect a species listed in 50 CFR 17.11. No pheasants or quail with ranges in the United States are listed there, and there is no evidence that any of the species listed in 50 CFR 17.11 will be affected by the removal of § 510.450. Pheasants and quail with ranges outside of the United States, although listed in 50 CFR 17.11, are not affected by § 510.450 as it now exists, nor will they be affected upon the effective date of its removal.

15. One comment contended that FDA did not adhere to regulations promulgated by the Council on Environmental Quality at 40 CFR 1500 to 1508 and the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332 *et seq.* in compiling the environmental assessment and the finding of no significant impact. The comment also contended that the finding of no significant impact is incorrect and that the agency must prepare an environmental impact statement before removing § 510.450.

FDA disagrees with each of these contentions. The agency has promulgated regulations (21 CFR part 25) to ensure adherence to all Council Environmental Quality and NEPA requirements, and has fully complied with those regulations in this matter. The Environmental Assessment was thoroughly researched and prepared according to the standards set out in 21 CFR 25.22(a)(9) and 25.31b and the Council on Environmental Quality's regulations, which implement the National Environmental Policy Act. It explores possible effects of the removal of § 510.450 upon all current uses of new animal drugs marketed under that section, and finds that new animal drug products with approved NADA's, almost all of them sulfonamide-containing, are available for every one of those uses except sulfaquinoxaline for fowl cholera in pheasants and quail. (See paragraph 1 of this preamble.) The environmental assessment also addresses the environmental consequences of the potential shift in chemical introductions resulting from the use of sulfonamide- and nonsulfonamide-containing drug products with approved NADA's (see finding of no significant impact and environmental assessment at pp. 10 to 22) and the environmental consequences of the unavailability of sulfaquinoxaline for the control of fowl cholera in pheasants and quail. (Id. at pp. 23 to 26.) In addition, the environmental assessment addresses mitigation measures (id. at pp. 27 to 29) and regulatory alternatives and expected environmental consequences (id. at pp.

30 and 31), and includes a comparative analysis of the removal of § 510.450 and the alternatives. (Id. at p. 32.)

The environmental assessment amply supports the finding of no significant impact, which concludes that the alternative sulfonamide-containing drug products, those with approved NADA's, share with the unapproved sulfonamides marketed under § 510.450 a similar low potential to cause environmental impacts, that the alternative nonsulfonamide-containing products, also with approved NADA's, have been found not to cause significant impacts, and that the unavailability of sulfaquinoxaline for the control of fowl cholera in pheasants and quail is not expected to produce adverse effects. For all these reasons, an environmental impact statement was not and is not required.

In sum, FDA believes that it has fully complied with the requirements of the Council on Environmental Quality's regulations, with the requirements of 21 CFR part 25, and with the National Environmental Policy Act. FDA reached an "adequately reasoned and explained decision" not to prepare an environmental impact statement. [*National Audubon Soc.* v. *Hester*, 801 F.2d 405, 407 (D.C. Cir. 1986).] Nothing more is required.

16. One comment alleged that FDA did not sufficiently address alternatives to the removal of § 510.450, and argued that a further exploration of alternatives warrants an environmental impact statement. According to the comment, the agency should have considered a "prolonged phaseout period" for the regulation.

FDA disagrees. In the environmental assessment, the agency considered two alternatives: the removal of § 510.450 and no action at all; and FDA concluded, consistent with 21 CFR 25.41(a), that there was no need to examine other regulatory alternatives because no adverse environmental impacts were found for the proposal to remove the regulation. (See finding of no significant impact and environmental assessment at pp. 30 and 31.) Under the circumstances, a prolonged phaseout of § 510.450, like other suggestions in favor of deferring final agency action in this matter (see paragraphs 4 to 7 of this preamble), would be neither consistent with the law nor jusitified by the facts, for the reasons explained in paragraphs 1, 5, 6, and 7 of this preamble.

17. One comment argued that the environmental assessment failed to address the following uncertainties in its analysis: the effect and likely use of substitutes for sulfonamide-containing drugs marketed under § 510.450, the environmental effects of using nonsulfonamide substitute products, and the effect of the removal of § 510.450 on pheasants and quail (including substitute products and disposal concerns), citing *Sierra Club* v. *Marsh*, 769 F.2d 868 (1st Cir. 1985).

FDA rejects the comment. First, each of the uncertainties in question is addressed in the Environmental Assessment. (See finding of no significant impact and environmental assessment at pp. 10 to 31.) Second, the cited case is inapposite. In *Sierra Club* v. *Marsh*, several Federal agencies failed to adequately consider the fact that construction of a cargo port and causeway would lead to further industrial development, and that further development would significantly affect the environment. Here, there has been no such failure. Indeed, the environmental assessment analyzed potential environmental impacts assuming a "worst case scenario" and found that the removal of § 510.450 is not expected to have a significant impact on the human environment.

II. References

The following references, together with the documents cited in the preamble, have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Letter dated November 5, 1975, from Adriano R. Gabuten, CVM, to Robert R. Baron, Salsbury Laboratories.
2. Letter dated January 12, 1976, from Adriano R. Gabuten, CVM, to Gregory P. Bergt, Consultant, I.D. Russell Co. Laboratories.
3. Letter dated February 5, 1976, from Adriano R. Gabuten, CVM, to Robert R. Baron, Salsbury Laboratories.
4. Letter dated February 6, 1976, from Adriano R. Gabuten, CVM, to I.D. Russell, I.D. Russell Co. Laboratories.
5. Letter dated May 3, 1976, from Adriano R. Gabuten, CVM, to Gregory P. Bergt, Consultant, I.D. Russell Co. Laboratories.
6. Letter dated August 27, 1979, from Charles E. Haines, CVM, to Robert R. Baron, Salsbury Laboratories.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

§ 510.450 [Removed]

2. Section 510.450 Sulfonamide-containing drugs for oral, injectable, intramammary, or intrauterine use in food-producing animals is removed from subpart E.

Dated: April 7, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90–18248 Filed 8–8–90; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 89–22]

RIN 2125–AC38

Truck Size and Weight; Saddlemount Combinations

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document increases the minimum overall length limit from 65 to 75 feet for drive-away saddlemount vehicle transporter combinations, including those that carry a fullmount. The States must allow these combinations to operate on the National Network (NN) designated for large trucks. This document also makes clear that both saddlemount combinations and saddlemount with fullmount vehicle transporter combinations are specialized equipment. The action is being taken in response to a petition from the National Automobile Transporters Association (NATA) and its member companies.

EFFECTIVE DATE: September 10, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Max Pieper, Office of Motor Carrier Information Management and Analysis, (202–366–4029) or Mr. Charles Medalen, Office of the Chief Counsel (202–366–1354), Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: A final rule implementing the truck size and

weight provisions of the Surface Transportation Assistance Act of 1982 (STAA), Public Law 97–424, 96 Stat. 2097, as amended, was published on June 5, 1984 [49 FR 23302] and codified at 23 CFR part 658. Among other things, this rule provided that States could not impose less than a 65 foot overall length limit on saddlemount and fullmount vehicle transporters. The preamble noted that the final rule did not specify how many vehicles must be allowed to be carried in saddlemount and fullmount operations. Also expressed FHWA's intent to initiate further rulemaking on automobile transporters.

This was accomplished through an advance notice of proposed rulemaking (ANPRM) published on October 2, 1984 [49 FR 38958] and a notice of proposed rulemaking (NPRM) published on November 25, 1985 [50 FR 48431]. A final rule published on January 29, 1988 [53 FR 2593], amended 23 CFR 658.13(d)(iii) to read as follows:

> Drive-away saddlemount with fullmount vehicle transporter combinations are considered to be specialized equipment. No State shall impose an overall length limit of less than 65 feet on saddlemount with fullmount combination. (Triple saddlemount combinations shall be allowed when conforming to the 65-foot length limit and the applicable safety regulations at 49 CFR 393.71.)

On September 7, 1988, the National Automobile Transporters Association (NATA) and its member companies petitioned the FHWA to increase the minimum overall length limit of saddlemount and saddlemount with fullmount combinations from 65 to 75. To support its petition, NATA provided with results of two vehicle performance tests conducted by the Western Highway Institute (WHI) and three computer simulations by its contractor, the University Michigan Transportation Research Institute (UMTRI). WHI's tests involved offtracking and stopping distances for a 60-foot double saddlemount and 65, 70, and 75-foot triple saddlemount combinations. UMTRI simulated the braking efficiency, rollover threshold, and rearward amplification of several saddlemount combinations, compared to other combination vehicles now in general use.

After examining the data from these tests, and FHWA published an NPRM on September 8, 1989 [54 FR 37344], proposing to increase the minimum overall length limit of such combinations from 65 to 75 feet and to clarify an ambiguity in the current rule by stating explicitly that both saddlemount and saddlemount with fullmount combinations are specialized equipment.

WHI/UMTRI Saddlemount Tests

Offtracking is the tendency of the rear wheels of a combination vehicle to track inside the path of the front wheels in a low speed turn and outside that path in a highspeed turn. In WHI's field tests, offtracking for the 75-foot triple saddlemount combination, while not as good as for the shorter saddlemount combinations, was better than for the twin 28-foot trailer combination and substantially better than for the 48-foot semitrailer combination. For example, on a 165-foot radius turn, the swept widths for the 75-foot triple saddlemount combination and 60-foot double saddlemount combination were 10.9 and 9.9 feet, respectively. The swept width for the twin 28-foot trailer and 48-foot semitrailer combinations were 12.3 and 14.6 feet, respectively.

The WHI braking test measured the distance from the point where vehicle brakes were applied to the point where it stopped while staying within a 12-foot wide lane. Although the 75-foot triple saddlemount combination did not brake as well as the 60-foot double saddlemount combination at some speeds (232 feet versus 213 feet at 55 mph, for example), its stopping distances at all speeds were well within the limits of Federal Motor Vehicle Safety Standard 121 (49 CFR part 571) (232 feet versus the FMVSS 121 requirement of 246 feet at 55 mph, for example).

The overall length of the vehicles simulated by UMTRI could not be determined with certainty because only distances between axles or between saddlemounts and axles were given. Therefore, they are identified by 73/75 (or 63/65) as being within the range of 73 to 75 (or 63 to 65) feet.

UMTRI's simulations involved four hypothetical saddlemount combinations, three triples and one double. The dimensional variables were the wheelbase of the tractor and the effective wheelbases, sprung weights, and vetical and longitudinal centers of gravity of the towed vehicles. Each axle, except the steering axle of the tractor, was assigned the same total brake force.

A computer program was used to calculate the deceleration each saddlemount combination could achieve before wheel lockup and loss of control occurred, compared to the theoretical maximum deceleration based on tire-road friction. The result was expressed in a percentage, with 100 percent being perfect braking efficiency.

In light braking (deceleration level of 0.1 g's [1]) UMTRI's computer simulation showed that the braking efficiency of the 73/75-foot triple saddlemount combination was similar to the 60-foot double saddlemount combination, the 63/65-foot triple saddlemount combination and the empty 48-foot semitrailer (60 percent versus 66, 61, and 62 percent, respectively). However, they were all substantially less than for the loaded 48-foot semitrailer (96 percent). This is to be expected since the brakes on heavy vehicles are generally better balanced for heavy than for light loads. Similar results were obtained during heavy (0.4 g's) braking (51 percent versus 58, 52, and 59 percent, respectively).

Rollover threshold is the amount of lateral acceleration, in g's, that a turning vehicle will tolerate before rolling over. UMTRI's rollover threshold simulations for the 73/75-foot triple saddlemount combination, 60-foot double saddlemount combination and 63/65-foot triple saddlemount combination produced very similar results (0.542, 0.547, and 0.543 g's, respectively). All were substantially better than for a loaded semitrailer combination (0.24–0.40 g's) but not as good as for an empty semitrailer combination (.70 g's).

Rearward amplification is an expression of the difference in response of the rearmost unit to the towing unit in a tight turn. A ratio of 1.0 indicates that the response of the last trailing unit is the same as for the towing vehicle, while higher values indicate that some exaggeration in the rear trailing unit response is occurring (the "crack-the-whip" effect). In the UMTRI simulation, the 73/75-foot triple saddlemount combination did not perform as well as the 60-foot double saddlemount combination (1.95 vs. 1.53) but did better than the 63/65-foot triple saddlemount combination and the 28-foot twin trailer combination (1.95 versus 2.13 and 2.55, respectively).

Thirteen responses to the NPRM were submitted to the FHWA Docket No. 89–22. The respondents represented State agencies (3), truck manufacturers (4), trade associations (3), carriers (2), and a research institute. Of these, all but two State agencies favored a 75-foot minimum overall length limit for saddlemount combinations.

Discussion

NATA's petition to increase the saddlemount combination length limit by 10 feet was based on two

[1] A "g" is equal to the acceleration of a body cause by the force of gravity.

developments: (1) truck tractors have become longer since the STAA prohibited regulations of their length in 1983, and (2) fuel efficient aerodynamic features are making cabs higher. This often means that saddlemount combinations must be lengthened to stay within State height limits, which in turn may require the elimination of one unit to meet the 65-foot length limit.

In the NPRM, the FHWA solicited comments on the following five matters:

1. The methods and vehicle combinations used and the results obtained in the Western Highway Institute (WHI) and University of Michigan Transportation Research Institute (UMTRI) tests and simulations and other studies regarding the following vehicle characteristics:

a. Offtracking,
b. Braking (stopping distance),
c. Braking efficiency,
d. Rollover, and
e. Rearward amplification.

2. Any other information regarding the performance of saddlemount combinations.

3. The productivity of saddlemount combinations and the need to extend the overall Federal length limits on saddlemount combinations from 65 to 75 feet.

4. The extent to which increasing by regulation the overall length limit of saddlemount combinations from 65 to 75 feet affects, alters or impacts upon State authority to regulate vehicles operating on State highways.

5. Any other information regarding safety concerns related to extending the overall length from 65 to 75 feet.

Comments Submitted to the Docket

1. Research methods and vehicle characteristics.

Seven respondents commented on the methods used and results reported by WHI and UMTRI.

WHI indicated that it and UMTRI stood behind the testing and analytical methods used and the results published in their saddlemount combination test report. NATA reaffirmed the industry's confidence in these tests, as did one of the associations and a carrier. The Motor Vehicle Manufacturers Association and one carrier supported the proposal since it would not only improve productivity but would also provide operating characteristics as good as or better than vehicle combinations presently allowed on the NN.

The Georgia Department of Transportation strongly opposed increasing the minimum overall length limit from 65 to 75 feet. It stated that the information supporting the petition was based solely on computer simulations that was extensions of the computer data used in adopting the 65-foot limit. Georgia argued that actual safety experience with 65-foot combinations is insufficient to evaluate the reliability of the computer models. UMTRI did use computer simulations in preparing certain information on vehicle combinations, but WHI used actual vehicles for its offtracking and stopping distance tests. The State also asserted that the 65-foot limit for triple saddlemount combinations has been in effect for only two years. In fact, such combinations have been authorized since 1984, although the States have been required to allow triple saddlemount combinations at that length for only two years. The driveway carrier accident experience reported by the National Safety Council (NSC), discussed below, shows that saddlemount combinations are safer than some more commonly used combinations. That result is consistent with UMTRI's computer simulations.

2. Any other information regarding the performance of saddlemount combinations.

After a demonstration at the University of Kentucky, the State's Transportation Cabinet concluded that the articulation provided by the saddlemount system is sufficient to provide safe maneuvering for 75-foot saddlemount or saddlemount and fullmount combinations. Kentucky, therefore, expressed no objection to the proposed rule.

3. The productivity of saddlemount combinations and the need to extend Federal minimum length limits from 65 to 75 feet.

Four truck manufacturers, three trade associations, two carriers and one research institute commented on this issue. They emphasized that because the STAA prohibits an overall length limit on the NN, truck tractors are becoming longer and, to be more fuel efficient, are being built with features that improve aerodynamics but increase vehicle height. The NATA estimated that cost savings from $6 to $7 million per year would result from the proposed length limit increase. It based these figures on numerous factors including savings on fuel, wages, operating taxes, travel expenses and the resulting increases in productivity. By dispatching 3 sets of triple saddlemount combinations instead of 4 sets of double saddlemount combinations, productivity would increase 25 percent. The WHI estimated that fuel costs would decrease 30 percent per delivered unit.

4. The extent the proposal alters or impacts upon State authority.

WHI pointed out that the proposal would not preempt State authority in a new area. One association noted that the proposed rule did not clearly indicate that the 75-foot length limit would apply to triple saddlemount and fullmount combinations. The three State agencies which submitted comments on other portions of the rule did not comment on this issue. The purpose of the rule is to apply the 75-foot length limit to all single, double, or triple saddlemount combinations and single, double, or triple saddlemount with fullmount combinations. The final rule has been revised to clearly reflect this intent.

5. Any other information regarding safety concerns related to extending the overall length of saddlemount combinations from 65 feet to 75 feet.

Two truck manufacturers, two associations, and WHI itself argued that WHI's study demonstrated that safety would not be degraded. Furthermore, because fewer combinations would be needed to move the same number of units, total vehicle miles of travel would be reduced, simultaneously reducing exposure and accidents. In addition, two respondents cited National Safety Council (NSC) data that driveaway carriers had a 1987 accident rate of only 4.1 accidents per million miles traveled. This compares with 1987 rates of 8.8 accidents per million miles for all trucks and 5.5 for truckaway automobile transporters. These figures are from the NSC report, "Fleet Accident Rates 1988," which has been included in the public docket on the rule.

Georgia and Kentucky expressed concern that the 75-foot limit may be an intermediate step to longer length limits. The FHWA has a statutory responsibility to promote motor carrier safety. To the extent consistent with that objective, we will also consider the productivity needs of the industry. Petitions for longer vehicle length limits will be approved only when there is clear evidence for their operational safety.

The Vermont Agency of Transportation opposed increasing the overall length of saddlemount combinations off the National Network (NN) due to the State's topography, narrow roads, numerous substandard curves, steep grades, and weather conditions. This is not directly at issue

in this rulemaking. Federal rules on reasonable access, published on June 1 (55 FR 22758), allow States to restrict vehicles on acccess routes they cannot use safely.

Conclusions

After examining the evidence submitted by NATA and the comments to the docket, the FHWA has concluded that extending the length of saddlemount combinations and saddlemount with fullmount combinations from 65 to 75 feet would not make them less safe than other combinations commonly found on the highways. In addition, their accident exposure would be reduced since fewer trips would be required to transport the same number of vehicles and efficiency and productivity would be enhanced. The increased productivity with no overall degradation of highway safety justifies the increase in length from 65 to 75 feet for saddlemount combinations.

The saddlemount definition and length provision in the NPRM have been revised to make clear that both saddlemount combinations and saddlemount with fullmount combinations are specialized equipment. In addition, it was proposed in the NPRM to define "saddlemount" in 23 CFR 658.5(r). However, the term "saddlemount" is already defined in 49 CFR 393.5. In order to remove any possible conflict and to accurately reflect the type of equipment being considered, we have substituted "saddlemount combination" for "saddlemount" in 23 CFR 685.5(r). The definition of "saddlemount combination" is also being corrected to reflect the fact that saddles are sometimes connected to the fifth wheel of a vehicle as well as to the frame.

Regulatory Impact

The FHWA has considered the impact of this rule and has determined that it is not a major rulemaking action within the meaning of Executive Order 12291 and not a significant rulemaking under the regulatory policies and procedures of the DOT. These determinations by the agency are based on the nature of the rulemaking. The FHWA has determined that this rulemaking technically amends the June 5, 1984, final rule [FHWA Docket 83-14, 49 FR 23302], clarifying and further defining certain issues contained therein. The impacts of the provisions addressed in this rulemaking do not differ in substance from those fully considered in the original impact statement accompanying the June 5 final rule. Automobile transporters of all types make up a small segment of the total medium to heavy truck population (approximately 13,000 transporter combinations out of a total medium to heavy truck population of over 2 million.) Although saddlemount combinations constitute an even smaller percentage, productivity gains could be considerable for this minor constituency. Safety considerations have been addressed earlier in this preamble. The Regulatory Impact Analysis prepared for the June 5 rulemaking is available for inspection in the FWHA Public Docket room 4232 in the Headquarters Office, 400 Seventh Street, SW., Washington, DC 20590.

Executive Order 12612 of October 26, 1987, "Federalism," requires that the effect of Federal regulations on the States must be weighed. Any regulatory preemption of State law must be restricted to the minimum level necessary to achieve the objective of the statute under which the regulation is promulgated. In this case, the FHWA previously authorized saddlemount combinations with a 65-foot minimum overall length limit. Therefore, State authority would not be preempted in a new area. The action is also consistent with the intent of the STAA to increase the productivity of the industry without adversely affecting safety.

Under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have an adverse economic impact on a substantial number of small entities.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 658

Grants programs—transportation, Highways and roads, Motor carrier—size and weight.

Issued on: July 31, 1990.

T.D. Larson,

Administrator.

PART 658—TRUCK SIZE AND WEIGHT: ROUTE DESIGNATION—LENGTH, WIDTH AND WEIGHT LIMITATIONS

In consideration of the foregoing, the FHWA is amending 23 CFR Part 658 as follows:

1. The authority citation for 23 CFR part 658 continues to read as follows:

Authority: Secs. 133, 411, 412, 413, and 416 of Pub. L. 97-424, 96 Stat. 2097 (23 U.S.C. 127; 49 U.S.C. app. 2311, 2312, 2313, and 2316), as amended by Pub. L. 98-17, 97 Stat. 59, and Pub. L. 98-554, 98 Stat. 2829; 23 U.S.C. 315; and 49 CFR 1.48.

2. Section 685.5 is amended by adding paragraphs (s) and (t), as follows:

§ 685.5 Definitions.

* * * * *

(s) *Saddlemount combination.* A saddlemount combination is a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The saddle is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a double saddlemount combination. When three vehicles are towed in this manner, the combination is called a triple saddlemount combination.

(t) *Fullmount.* A fullmount is a smaller vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination.

3. Section 658.13(d)(1)(iii) is revised to read as follows:

§ 658.13 Length.

* * * * *

(d)(1) * * *

(iii) Drive-away saddlemount vehicle transporter combinations and driveaway saddlemount with fullmount vehicle transporter combinations are considered to be specialized equipment. No State shall impose an overall length limit of less than 75 feet on such combinations. This provision applies to saddlemount combinations with up to three saddlemounted vehicles. Such combinations may include one fullmount. Saddlemount combinations must also comply with the applicable safety regulations at 49 CFR 393.71.

* * * * *

[FR Doc. 90-18661 Filed 8-8-90; 8:45 am]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-300 Re; Notice No. 694]

RIN 1512-AA07

Realignment of the Eastern Boundary of the Alexander Valley Viticultural Area and the Northeastern Boundary of the Northern Sonoma Viticultural Area (88F-120P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision; final rule.

SUMMARY: This final rule amends the eastern boundary of the Alexander Valley viticultural area to encompass the planted areas of Gauer Ranch and Chestnut Springs Vineyards. Also, the northeastern boundary of the Northern Sonoma viticultural area is being amended to coincide with the amendment of the boundary for the Alexander Valley viticultural area. The amended boundary conforms, in part, to the boundary proposed by Group B of the original Alexander Valley petitioners. Approximately 19,085 acres of territory are added to the Alexander Valley and Northern Sonoma viticultural areas. Of these, 165 acres are currently planted to grapes, and another 460 acres are scheduled to be planted within the next three to five years.

EFFECTIVE DATE: September 10, 1990.

FOR FURTHER INFORMATION CONTACT: David W. Brokaw, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features, the boundaries of which have been delineated in subpart C of part 9. Section 4.25a(e)(2), title 27, CFR, outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

T.D. ATF-187

T.D. ATF-187, which was published in the **Federal Register** on October 24, 1984, established the Alexander Valley viticultural area effective November 23, 1984. Two groups had presented petitions for the establishment of an Alexander Valley viticultural area, and a hearing was held on January 24, 1983, concerning establishment of the viticultural area. In the final rule, ATF found that the general area encompassed within the boundaries proposed by the second group, ("Group B"), merited establishment as the Alexander Valley viticultural area. Therefore, the viticultural area established by the final rule generally corresponded to the area proposed by Group B. However, their proposed boundaries were modified to exclude several mountainous areas encompassed by the eastern and northwestern boundaries, which ATF found possessed viticultural features which were distinguished by geographical features from the rest of the proposed viticultural area. Specifically, ATF found that the mountainous areas to the east were characterized by soils primarily of the Goulding-Toomes-Guenoc association, while the valley floor was characterized by soils of the Yolo-Cortina-Pleasanton association. ATF noted that virtually all grapes in the Alexander Valley area were grown on the valley floor, adjacent river terraces, and the lower slopes rising out of the valley. The U.S.G.S. 7.5 minute topographic maps reviewed by ATF did not depict any vineyards in the mountainous areas. Finally, ATF found no evidence that the name Alexander Valley was locally and/or nationally known as referring to those mountainous areas, or that the historical or current boundaries of Alexander Valley had ever included those areas. Therefore, ATF concluded that the eastern boundaries proposed by Group B encompassed mountain areas which lay outside the actual geographic and viticultural limits of Alexander Valley, and those boundaries were modified accordingly.

Petition

ATF received a petition for amendment of the eastern boundary of Alexander Valley viticultural area to encompass the planted and soon-to-be-planted areas as Gauer Ranch and Chestnut Springs Vineyards. The petition was submitted by Edward H. Gauer of Gauer Ranch and Ellis J. Alden of Chestnut Springs Vineyards.

Mr. Gauer stated that his 6,000-acre ranch includes property on the valley floor and land rising to the northeast into the hills. Mr. Gauer began planting vineyards in Alexander Valley in 1972. Over the next five years he established 251 acres of vineyards on the valley floor and at low elevations in the foothills. Since 1977 an additional 142 acres have been planted on the hillsides, and another 392 acres of potential new vineyard sites have been chosen.

Mr. Alden stated that he purchased his 1,400 acre ranch in the hills east of Geyserville in 1986 and planted his first vineyards in 1988. Thirteen acres of Cabernet grapes are in the ground; a total of 100 acres are planned for the level and nearly level expanses of the upland valley on his ranch.

Mr. Gauer recently learned that a large part of his property was excluded from the official Alexander Valley viticultural area boundaries which were established in 1984. Both of the petitions as originally submitted included all of Mr. Gauer's hillside vineyards, as well as the site which has now been planted to Mr. Alden's vineyards. Evidence at the hearing did not focus on the exclusion of vineyards of higher elevation. Both of the current petitioners were under the erroneous impression that their properties were included in the Alexander Valley viticultural area boundaries. However, the boundaries described in the final rule excluded a portion of Mr. Gauer's vineyards, and totally excluded the property currently owned by Mr. Alden. When T.D. ATF-187 was issued, ATF was unaware that the boundaries would exclude portions of Mr. Gauer's vineyards from the Alexander Valley viticultural area. ATF mistakenly believed that there were no vineyards planted in the mountainous areas to the east of the eastern boundary line. The petition thus requested an amendment of the eastern

boundary of the Alexander Valley viticultural area to include the vineyards owned by the petitioners.

Northern Sonoma

ATF's amendment of the boundary of the Alexander Valley viticultural area affects the boundary of the Northern Sonoma viticultural area.

In the preamble to Notice No. 472 proposing the Northern Sonoma viticultural area, ATF stated its intention to have the proposed boundary coincide generally with the "outer" portions of the boundaries of the proposed Alexander Valley, Dry Creek Valley, Russian River Valley, and Knights Valley viticultural areas. In the preamble to T.D. ATF-204, ATF stated that these four areas all fit perfectly together dividing northern Sonoma County into four large areas with the Northern Sonoma area using all of the outer boundaries of these four areas with the exception of a small area having nearly 300 acres of grapevines and possessing the same geographical features as the rest of the Northern Sonoma area.

Therefore, ATF is amending the northeastern boundary of the Northern Sonoma viticultural area to coincide with the amended eastern boundary for the Alexander Valley viticultural area.

Evidence of Name

The petitioners submitted evidence that the area was known as Alexander Valley at the time the final boundaries were established in 1984, and has been known as part of Alexander Valley since then. Several letters from owners of neighboring vineyards, including one from a member of the Alexander Valley Appellation Committee, stated that the area in question is locally known as part of Alexander Valley. The letters supported the petitioners' contention that their vineyards had been left out of the Alexander Valley boundaries by mistake. Also, letters from several wineries indicated that they had used grapes from the area in question in wines which were labeled as coming from the Alexander Valley.

Newspaper and magazine articles submitted by the petitioners referred to the Gauer ranch as being located in the Alexander Valley area. In addition, a map created in early 1984, before the final rule (T.D. ATF-187) on Alexander Valley was published, and distributed nationally by the Sonoma County Wineries Association, shows the boundaries of the Alexander Valley viticultural area as encompassing the vineyards owned by the petitioners.

Topography

The elevations found within the petitioned area are consistent with elevations inside the currently defined boundaries of Alexander Valley. Elevations in the northeastern corner of the appellation, which are the highest in the Alexander Valley viticultural area, range from 1,600 to 2,400 feet. In the area within the amended boundary, elevations range from 600 to 2,000 feet. The amended boundary approximates a minor watershed boundary within the larger Russian River watershed. To the southwest of the amended boundary line (i.e., the foothills currently in Alexander Valley viticultural area and the area added to the appellation) surface water drains directly into the Russian River. To the northeast of the line, surface water drains first into Sulphur Creek and its tributaries and from there into the Russian River. This natural boundary proceeds from the top of Black Mountain along a ridge line that bisects Mr. Alden's Ranch.

Climate

The climate of the added area falls within the range of climate found inside the currently approved Alexander Valley appellation. The climate of Alexander Valley contains a certain amount of variation. For example, temperatures increase as one travels from north to south; fog affects only the southern portion of the valley. In general, the climate of Alexander Valley is characterized as a Region III climate according to the system developed by Amerine and Winkler.

No long range temperature studies for either the Gauer Ranch or Chestnut Springs Ranch have been made. However, the petitioners stated, "years of viticultural experience on the Gauer Ranch indicate that the area has a region III climate, suitable for the production and consistent ripening of late varieties such as Cabernet Sauvignon, yet not too warm to produce excellent quality Chardonnay, a relatively early variety."

Soils

A very general soil survey map of Sonoma County put out by the U.S. Department of Agriculture Forest Service and Soil Conservation Service (May 1972), which categorizes soil groupings into ten types, characterizes the primarily alluvial soils of the valley floor as the Yolo-Cortina-Pleasanton Association. Proceeding northeast into the foothills, the map identifies the next soil grouping as the Goulding-Toomes-Guenoc Association. Farther east and running parallel to this association lies another grouping classified as the Yorkville-Suther Association. The rugged mountainous area beyond is mapped as the Los Gatos-Hennecke-Maymen Association. The current eastern boundary of the appellation runs within the area marked Goulding-Toomes-Guenoc, except for the expanded area in the northeast corner, which is mapped as Yorkville-Suther.

However, a closer examination of U.S. Department of Agriculture Forest Service and Soil Conservation (May 1972) large scale soil maps of the eastern half of Alexander Valley suggests that the distinctions between the general soil associations of the foothills are not so clear-cut. The close-in foothills, inside the current Alexander Valley viticultural area boundaries, contain significant quanitites of many of the same soils as the foothills within the amended boundary area.

The eastern foothills officially accepted as part of Alexander Valley show substantial areas of Suther loam, Laughlin loam, Suther-Laughlin loams, Spreckels loam soils, and smaller areas of Sobrante loam, Yorkville clay loam, Pleasantown gravelly loam, Josephine loam, Hennecke gravelly loam, and others including Montara cobbly clay loam, Guenoc gravelly silt loam, Supan silt loam, and Toomes rocky loam. The principal soils in this list are classified as uplands range soils.

The area within the amended boundary shows predominantly Suther loam, Laughlin loam, Suther-Laughlin loams, Yorkville clay loam, and Sobrante loam soils, with smaller areas of Josephine loam, Hennecke gravelly loam, and others. The principal soils, here again, are classified as uplands range soils.

The area outside the amended boundary has large areas of Hennecke gravelly loam, Los Gatos gravelly loam, Stonyford gravelly loam, Josephine loam, Suther-Laughlin loams, Hugo very gravelly loam, and Laughlin loam soils, and smaller areas of Maymen gravelly sandy loam, Hugo-Atwell complex, rock land, and others. The principal soils in this group are mountainous/wilderness type soils.

Thus, in the eastern foothills of Alexander Valley, like in most parts of Sonoma County, there is a great diversity of soil types. There are, however, unifying themes as well. As described above, the same soils reappear throughout the foothills. East of the amended boundary, where the terrain becomes appreciably more rugged, different soil types appear and become predominant.

Notice of Proposed Rulemaking

On December 29, 1989 (54 FR 53653), Notice No. 694 was published in the **Federal Register** with a 45 day comment period. In that notice, ATF requested comments regarding the proposal to amend the eastern boundary of the Alexander Valley viticultural area to encompass the planted areas of Gauer Ranch and Chestnut Springs Vineyards. ATF also proposed the amendment of the northeastern boundary of the Northern Sonoma viticultural area to coincide with the proposed amendment of the boundary for the Alexander Valley viticultural area. During the 45 day comment period, no comments were received.

Miscellaneous

ATF does not wish to give the impression that by approving this realignment of the boundary common to the Alexander Valley and Northern Sonoma viticultural areas that it is approving or endorsing the quality of the wine derived from these two viticultural areas. ATF is approving these viticultural areas as being distinct and not better than other areas. By approving these realignments, wine producers within these areas are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of wines from "Alexander Valley" and "Northern Sonoma."

Regulatory Flexibility Act

It is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because the final rule is not expected (1) to have significant secondary or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Executive Order 12291

It has been determined that this final rule is not a major regulation as defined in E.O. 12291 and a regulatory impact analysis is not required because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographical regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96-511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is David W. Brokaw, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority and Issuance

27 CFR Part 9, American Viticultural Areas, is amended as follows:

PART 9—[AMENDED]

Paragraph 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. Section 9.53 is amended by revising paragraphs (c) (37) through (42), removing paragraphs (c) (43) and (44), and redesignating paragraphs (c) (45) and (46) as (c) (43) and (44) to read as follows:

§ 9.53 Alexander Valley.

* * * * *

(c) *Boundary.* * * *

(37) Then northerly along the western lines of section 4, of T. 9 N, R. 8 W., and sections 33, 28, 21, 16, and 9 of T. 10 N., R. 8 W.;

(38) Then westerly along the northern lines of section 8 and 7, T. 10 N., R. 8 W. and section 12, T. 10 N., R. 9 W. to the southeastern corner of section 2, T. 10 N., R. 9 W.;

(39) Then northwesterly in a straight line to the eastern line of section 3 at 38 degrees 45 minutes latitude, T. 10 N., R. 9 W.;

(40) Then westerly along latitude line 38 degrees 45 minutes to the point lying at 122 degrees 52 minutes 30 seconds longitude;

(41) Then northwesterly in a straight line to the southeast corner of section 4, T. 11 N., R. 10 W., on the Asti, Quadrangle map;

(42) Then northeasterly in a straight line to the southeast corner of section 34, T. 12 N., R. 10 W.;

Par. 3. Section 9.70(b) is revised to read as follows:

* * * * *

§ 9.70 Northern Sonoma.

(b) *Approved maps.* The approved maps for determining the boundary of the Northern Sonoma viticultural area are the U.S.G.S. Topographical Map of Sonoma County, California, scale 1:100,000, dated 1970, the Asti Quadrangle, California, 7.5 minute series (Topographic) Map, dated 1959, photorevised 1978, and the Jimtown Quadrangle, California-Sonoma County, 7.5 Minute series (Topographic) Map, dated 1955, photorevised 1975.

Par. 4. Section 9.70 is amended by revising paragraphs (c) (10) through (26) and by removing paragraphs (c) (27) and (28) to read as follows:

* * * * *

(c) *Boundary.* * * *

(10) The boundary proceeds northerly along the western lines of section 4, of Township 9 North, Range 8 West, and sections 33, 28, 21, 16, and 9 of Township 10 North, Range 8 West of the Jimtown Quadrangle map.

(11) The boundary proceeds westerly along the northern lines of sections 8 and 7, Township 10 North, Range 8 West and section 12, Township 10 North, Range 9 West to the southeastern corner of section 2, Township 10 North, Range 9 West.

(12) The boundary proceeds northwesterly in a straight line to the eastern line of section 3 at 38 degrees 45 minutes latitude, Township 10 North, Range 9 West.

(13) The boundary proceeds westerly along latitude line 38 degrees 45 minutes to the point lying at 122 degrees 52 minutes 30 seconds longitude.

(14) The boundary proceeds northwesterly in a straight line to the southeast corner of section 4, Township 11 North, Range 10 West, on the Asti, Quadrangle map.

(15) The boundary proceeds northeasterly in a straight line to the southeast corner of section 34, Township 12 North, Range 10 West.

(16) The boundary proceeds north along the east boundary of section 34, Township 12 North, Range 10 West on the U.S.G.S. Topographical Map of Sonoma County, California, to the Sonoma County-Mendocino County line.

(17) The boundary proceeds along the Sonoma County-Mendocino County line west then south to the southwest corner of section 34, Township 12 North, Range 11 West.

(18) The boundary proceeds in a straight line east southeasterly to the

southeast corner of section 2, Township 11 North, Range 11 West.

(19) The boundary proceeds in a straight line south southeasterly to the southeast corner of section 24, Township 11 North, Range 11 West.

(20) The boundary proceeds in a straight line southeasterly across sections 30, 31, and 32 in Township 11 North, Range 10 West, to the point at 38 degrees 45 minutes North latitude parallel and 123 degrees 00 minutes East longitude in section 5, Township 10 North, Range 10 West.

(21) The boundary proceeds along this latitude parallel west to the west line of section 5, Township 10 North, Range 11 West.

(22) The boundary proceeds along the section line south to the southeast corner of section 18, Township 9 North, Range 11 West.

(23) The boundary proceeds in a straight line southwesterly approximately 5 miles to the peak of Big Oat Mountain, elevation 1,404 feet.

(24) The boundary proceeds in a straight line southerly approximately 2¾ miles to the peak of Pole Mountain, elevation 2,204 feet.

(25) The boundary proceeds in a straight line southeasterly approximately 4¾ miles to the confluence of Austin Creek and the Russian River.

(26) The boundary proceeds along the Russian River northeasterly, then southeasterly to the beginning point.

Signed: June 22, 1990.

Daniel R. Black,

Acting Director.

Approved: June 20, 1990.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 90-18507 Filed 8-8-90; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 1441-90]

INTERPOL—United States National Central Bureau; Establishment of User Fees

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: On August 23, 1989, the Department of Justice, United States National Central Bureau (USNCB)–INTERPOL, published a notice of proposed rulemaking to amend its regulations to establish a system of user fees for the noncriminal inquiries it processes yearly. The system will permit the USNCB to recover the administrative costs the USNCB incurs when processing these noncriminal inquiries. No comments having been received, this final rule is being published without change from the proposed regulations.

EFFECTIVE DATE: August 9, 1990.

FOR FURTHER INFORMATION CONTACT: Ernest M. Buck, Deputy Assistant Chief, Financial Fraud Analysis Section, U.S. National Central Bureau (INTERPOL), (202) 272-8383. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This regulation will permit the collection of user fees for noncriminal inquiries to the USNCB, such as background checks pertaining to adoptions, gaming licensing, and state bar examination applicants. The fees are intended to recover the administrative costs the USNCB incurs in processing the noncriminal inquiries.

This regulation is not a major rule within the meaning of Executive Order 12291. This regulation will not have an impact on a significant number of small business. 5 U.S.C. 901.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, organization and functions (Government agencies), Whistleblowing.

By the authority vested in me including 28 U.S.C. 509, and 5 U.S.C. 301, subpart F-2 of part 0 of title 28 of the Code of Federal Regulations is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 301, 2303, 3103; 8 U.S.C. 1103, 1324A, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 3621, 3622, 4001, 4041, 4042, 4044, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 873(a), 881(d), 904; 22 U.S.C. 263a, 1621-1654o, 1622 note; 28 U.S.C. 509, 510, 515, 516, 519, 524, 543, 552, 552a, 569; 31 U.S.C. 1108, 3801 *et seq.*; 50 U.S.C. App. 1989b, 2001-2017p; Pub. L. 91-513, sec. 501; E.O. 11919; E.O. 11267; E.O. 11300; Pub. L. 101-203.

2. Subpart F-2, § 0.34 is amended by adding a new paragraph (g) to read as follows:

§ 0.34 General functions.

* * * * *

(g) Establish and collect user fees to process name checks and background records for licensing, humanitarian and other non-law enforcement purposes.

Dated: July 31, 1990.

Dick Thornburgh,

Attorney General.

[FR Doc. 90-18572 Filed 8-8-90; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3814-5]

Approval and Promulgation of State Implementation Plans; North Dakota; Group III PM10 and Other Regulation Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today approving revisions to North Dakota's State Implementation Plan (SIP) submitted by the Governor on April 18, 1989. This approval is only for those revisions which updated and revised State rules (including PSD regulations) and control strategies to address PM10, and made minor updates to various other regulation revisions, including the revisions to the Control of Pesticides regulation. The April 18, 1989 submittal (1) established new and revised existing New Source Performance Standards (NSPS), (2) revised existing National Emission Standards for Hazardous Air Pollutants (NESHAPs), (3) updated and revised State rules (including PSD regulations) and control strategies to address PM10, (4) made minor updates to various other State regulations, including the revisions to the Control of Pesticides regulation, and (5) added a control strategy to address visibility. The NSPS additions and revisions, and NESHAPs revisions, are being addressed in separate actions. The visibility control strategy was addressed at 54 FR 41094, October 5, 1989. This action updates the North Dakota SIP to incorporate the control strategy for Group III PM10 areas and the revisions to the Air Pollution Control Rules. EPA proposed to approve this action at 54 FR 40133, September 29, 1989 (with corrections at 54 FR 43521, October 25, 1989). No comments were received.

EFFECTIVE DATE: This rule will become effective on September 10, 1990.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202–2405
Division of Environmental Engineering, North Dakota State Department of Health and Consolidated Laboratories, 1200 Missouri Avenue, P.O. Box 5520, Bismarck, North Dakota 58502–5520
Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

FOR FURTHER INFORMATION CONTACT: Laurie Ostrand, Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202–2405, (303) 293–1814, FTS 330–1814.

SUPPLEMENTARY INFORMATION: The 1977 amendments to the Clean Air Act require EPA to review periodically and, if appropriate, revise the criteria on which the National Ambient Air Quality Standards (NAAQS) for each air pollutant are based, as well as review and revise the NAAQS themselves. In response to these requirements, EPA published a notice to promulgate revised NAAQS for particulate matter under ten microns in size (known as PM10) on July 1, 1987 (52 FR 24634). As a result, States must revise their State Implementation Plans (SIPs) to attain and maintain the new NAAQS.

Summary of Rule Changes

The North Dakota Air Pollution Control Rules contain 20 chapters, 33–15–01 through 33–15–20. Chapters 33–15–01 (General Provisions), 33–15–02 (Ambient Air Quality Standards), 33–15–11 (Prevention of Air Pollution Emergency Episodes), and 33–15–15 (Prevention of Significant Deterioration of Air Quality), were revised to reflect the changes precipitated by the new PM10 standard. Additionally, the State revised chapters 33–15–04 (Open Burning Restrictions), 33–15–07 (Control of Organic Compounds), 33–15–10 (Control of Pesticides), and 33–15–14 (Designated Air Contaminant Sources, Permit to Construct, Permit to Operate). A more detailed review of the regulation revisions was provided in the proposal notice to this action. See 54 FR 40133, September 29, 1989 (with corrections at 54 FR 43521, October 25, 1989). A review of the acceptability of the rule changes will be discussed later in the text.

Summary of PM10 Control Strategy

North Dakota is Group III for PM10 classification. Group III areas are estimated to have a low (less than 20% probability of violating the PM10 standards. For Group III areas, EPA is presuming that the existing federally approved SIP is adequate to maintain the PM10 standards. Therefore, North Dakota is not required to revise its attainment demonstration or emissions limits in the existing SIP. North Dakota, however, is required to specifically identify enforceable control measures that are maintaining the existing particulate matter ambient concentrations. North Dakota has indicated that the control strategy employed by the State for inhalable particulate (PM10) matter is essentially the same as that employed to control TSP matter. This consists primarily of the application of the North Dakota Air Pollution Control Rules; specifically, chapters 33–15–03 (Restriction of Emission of Visible Air Contaminants, 33–15–04 (Open Burning Restrictions), 33–15–05 (Emissions of Particulate Matter Restricted), 33–15–17 (Restriction of Fugitive Emissions). Additional controls on particulate emissions are applied through chapter 33–15–12 (Standard of Performance of New Stationary Sources) and 33–15–15 (Prevention of Significant Deterioration of Air Quality).

Determination of Adequacy of SIP Revisions

A. Regulation Revisions

The State has adequately addressed all comments raised by the public and EPA with respect to changes in the following regulations. As noted below, EPA's analysis is that the regulations meet EPA requirements.

1. Chapter 33–15–01—General Provisions

In the definitions of "particulate matter emissions" and "PM10 emissions" the State omitted the following: "as measured by applicable reference methods, or an equivalent or alternative method as specified in the State Implementation plan (SIP)." EPA has determined that this is not a detrimental omission for several reasons. First, the General Provisions of the State's air pollution control rules requires, for the measurement of emissions of air contaminants, that all tests be made and the results calculated in accordance with test procedures approved by the North Dakota Department of Health ("the Department") [33–15–01–12(1)]. Second, most of the regulations identified in the State's PM10 control strategy specify methods of measurement.

The State also omitted the following in the definition of PM10: "as measured by a reference method based on Appendix J of 40 CFR part 50 and designated in accordance with 40 CFR part 53 or by an equivalent method designated in accordance with 40 CFR part 53." EPA has determined that this is not a detrimental omission because in chapter 33–15–02, Ambient Air Quality Standards, of the State's air pollution regulations, 40 CFR parts 50 and 53 are referenced as methods of measurement for the State's ambient air quality standards, which include PM10.

2. Chapter 33–15–02—Ambient Air Quality Standards, and chapter 33–15–04—Open Burning Restrictions

The revisions to these chapters are acceptable to EPA.

3. Chapter 33–15–07—Control of Organic Compounds

The revisions to this chapter are acceptable to EPA. This chapter provides for the exemption of some minor sources from requirements that would mandate all emissions, regardless of quantities, be flared or controlled equally effectively. EPA interprets this to mean that although some minor sources may be exempted by the State regulation, they may be subject to the Federal New Source Performance Standards in 40 CFR part 60. Exemption from a State regulation does not exempt a source from 40 CFR part 60. Such interpretation was confirmed in a letter dated August 22, 1989, from Dana K. Mount, Director of the Division of Environmental Engineering, to Doug Skie, EPA. Likewise, exemption from a State regulation does not relieve a source from meeting requirements in 40 CFR part 61, National Emission Standards for Hazardous Air Pollutants.

4. Chapter 33–15–10—Control of Pesticides, and Chapter 33–15–11—Prevention of Air Pollution Emergency Episodes

The revisions to these chapters are acceptable to EPA.

5. Chapter 33–15–14—Designated Air Contaminant Sources, Permit to Construct, Permit to Operate

The revisions to this chapter are acceptable to EPA. EPA does note, however, that the State has not revised its rules to be totally consistent with 40 CFR 51.165(b). 40 CFR 51.165(b) is a preconstruction review program for major sources or major modifications [as defined in 40 CFR 51.165(a)] that cause or contribute to a violation of any NAAQS. "Cause or contribute" is defined by significance levels in 40 CFR 51.165(b)(2). North Dakota's regulation does not define significance levels.

This is not a detrimental flaw in the North Dakota regulations for several

reasons. First, North Dakota does not have any nonattainment areas in the State. Second, North Dakota does have regulations which require construction permits for various listed sources regardless of size. For sources not listed, those that are greater than 50 tons per year, 1000 pounds per day, or 100 pounds per hour, whichever is more restrictive, are required to obtain a contruction permit. Third, as confirmed by letter dated August 28, 1989, from Dana K. Mount, Director of the Division of Environmental Engineering, to Laurie Ostrand, EPA, it is the "State's current policy to issue a permit to a source if the modeling demonstrated it did not contribute significantly to a violation of an ambient air quality standard." A significant contribution is defined by significant levels found in Table 2-1 page 2-6 of the "North Dakota Guideline for Air Quality Modeling Analysis," December 12, 1986. This table, however, is not totally consistent with the table found in 40 CFR 51.165(b)(2). The August 28, 1989 letter, did indicate that Chapter 33-15-14 was being revised to clarify the State's policy. Further, the State has indicated, in a letter from Terry O'Clair, dated September 5, 1989, to Laurie Ostrand, EPA, its proposed revisions to Chapter 33-15-14. Such revisions include a table consistent with the table found in 40 CFR 51.165(b)(2). Because there are no nonattainment areas in North Dakota and because the State is intending to include a significant levels table in Chapter 33-15-14 consistent with the table found in 40 CFR 51.165(b)(2), EPA believes this Chapter meets EPA requirements.

6. Chapter 33-15-15—Prevention of Significant Deterioration of Air Quality

The revisions to this chapter are acceptable to EPA. EPA does note, however, that the State has amended 33-15-15-01(2)(a), as suggested by EPA. This paragraph states that the provisions of this chapter (33-15-15) apply to those counties or other functionally equivalent areas that are designated as attainment or unclassifiable for any of the national ambient air quality standards. EPA interprets this to mean that this chapter applies to those areas designated attainment or unclassifiable per section 107(d)(1) (D) or (E) of the Clean Air Act as well as for all areas with respect to lead and PM10. Such interpretation was confirmed in a letter dated August 22, 1989, from Dana K. Mount, Director of the Division of Environmental Engineering, to Doug Skie, EPA.

B. Group III PM10

1. PM10 Control Strategy

The control strategy for PM10, detailed above, is considered adequate by EPA. As indicated by the State, the highest 24-hour PM10 concentration measured during the period from July 1, 1985, through December 31, 1988 was 136 $\mu g/m^3$. The highest annual arithmetic mean was 30.1 $\mu g/m^3$. The maximum values are well below the national ambient air quality standard (NAAQS) for PM10. If the State does, however, observe a violation of the PM10 NAAQS, such area will be treated as a newly discovered nonattainment area.

2. Various Regulation Revisions to Address PM10

The State has revised its ambient air quality standard to include a standard for PM10 (see 33-15-02-04) which is as stringent as the PM10 NAAQS.

The State has revised its Prevention of Significant Deterioration (PSD) regulations to address PM10 (see 33-15-15). These revisions are consistent with 40 CFR 51.166.

The State has revised its Emergency Episode Plan to address the PM10 revisions (see 33-15-11). These revisions are consistent with 40 CFR part 51 appendix L.

3. PM10 Monitoring

The State operates six PM10 monitors at five locations. (The State SIP submittal indicated six locations. This is apparently a typographical error.) These sites meet the requirements of 40 CFR part 58.

Final Action

EPA is approving the SIP revision submitted by the Governor of North Dakota on April 18, 1989, with the interpretations as discussed. Such approval, however, is only for that portion of the April 18, 1989 submittal which pertains to the revisions which updated and revised North Dakota Air Pollution Control Rules (including PSD regulations) and control strategies to address PM10, and the minor updates to various other regulations, including the revisions to the Control of Pesticides Regulation. The NSPS additions and revisions, and NESHAPs revisions, are being addressed in separate actions. The visibility control strategy was addressed at 54 FR 41094, October 5, 1989.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to any state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review must be filed in the United States Court of Appeals for the appropriate circuit by October 9, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by Reference, Particulate matter.

Note: Incorporation by reference of the State Implementation Plan for the State of North Dakota was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 18, 1990.

Jack McGraw,

Acting Regional Administrator.

For the reasons set forth in the preamble, 40 CFR part 52, subpart JJ, is amended as follows:

PART 52—[AMENDED]

Subpart JJ—North Dakota

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1820 is amended by adding paragraph (c)(19) to read as follows:

§ 52.1820 Identification of plan.

* * * * *

(c) * * *

(19) On April 18, 1989, the Governor of North Dakota submitted revisions to the plan. The revisions included updates to existing regulations and the Group III PM10 plan.

(i) *Incorporation by reference.*

(A) Revisions to the Air Pollution Control Rules of the State of North Dakota Chapters, 33-15-01, 33-15-02, 33-15-4, 33-15-07, 33-15-10, 33-15-11, 33-15-14, and 33-15-15, inclusive, which were effective on January 1, 1989.

(ii) *Additional material.*

(A) August 22, 1989 letter from Dana K. Mount, Director of the Division of Environmental Engineering, to Doug Skie, EPA.

(B) August 28, 1989 letter from Dana K. Mount, Director of the Division of Environmental Engineering, to Laurie Ostrand, EPA.

(C) September 5, 1989 letter from Terry O'Clair, Assistant Director of the Division of Environmental Engineering, to Laurie Ostrand, EPA.

[FR Doc. 90-17903 Filed 8-8-90; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 721

[OPTS-50583; FRL-3765-3]

RIN 2070-AB27

Significant New Uses of Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for several chemical substances which were the subject of premanufacture notices (PMNs), and are subject to TSCA section 5(e) consent orders issued by EPA. Today's action requires certain persons who intend to manufacture, import, or process these substances for a significant new use to notify EPA at least 90 days before commencing the manufacturing or processing activity designated by this SNUR as a significant new use. The required notice will provide EPA with the opportunity to evaluate the intended use, and, if necessary, to prohibit or limit that activity before it occurs. EPA is promulgating this SNUR using direct final procedures.

DATES: This rule is effective October 9, 1990.

If EPA receives notice before September 10, 1990 that someone wishes to submit adverse or critical comments on EPA's action in establishing a SNUR for one or more of the chemical substances subject to this rule, EPA will withdraw the SNUR for the chemical for which the notice of intent to comment is received, and will issue a proposed SNUR providing a 30-day period for public comment.

ADDRESSES: Each comment or notice of intent to submit adverse or critical comment must bear the docket control number OPTS-50583 and the name(s) of the chemical substance(s) subject to the comment. Since some comments may contain confidential business information (CBI), all comments should be sent in triplicate to: TSCA Document Receipt Office (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. E-105, 401 M St., SW., Washington, DC 20460.

Nonconfidential versions of comments on this rule will be placed in the rulemaking record and will be available for public inspection. The Supplementary Information section of this preamble contains additional information on submitting comments containing CBI.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: This SNUR will require persons to notify EPA at least 90 days before commencing any activity designated by this SNUR as a significant new use. The supporting rationale and background to this rule are more fully set out in the preamble to EPA's first direct final SNURs published in the **Federal Register** of (April 24, 1990) 55 FR 17376. Consult that preamble for further information on the objectives, rationale, and procedures for the rules and on the basis for significant new use designations including provisions for developing test data.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemicalsubstance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.10.

II. Applicability of General Provisions

General provisions for SNURs appear under subpart A of 40 CFR part 721. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of rule to uses occurring before the effective date of the final rule. Rules on user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and 5(d)(1), the exemptions authorized by section 5(h)(1), (2), (3), and (5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities on which it has received the SNUR notice. If EPA does not take action, EPA is required under section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707. Persons who intend to import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28 and must certify that they are in compliance with the SNUR requirements. The EPA policy in support of the importation certification appears at 40 CFR part 707.

III. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for the following chemical substances under 40 CFR part 721 subpart E. In this unit, EPA provides a brief description for each substance, including its PMN number, chemical name (generic name if the specific name is claimed as CBI), CAS number (if applicable), basis for the action taken by EPA in the section 5(e) consent order for the substance (including the statutory citation and specific finding), and the CFR citation assigned in the regulatory text section of this rule. The specific uses which are designated as significant new uses are cited in the regulatory text section of the rule by reference to 40 CFR part 721 subpart B where the significant new uses are described in detail. Where the underlying section 5(e) order prohibits the PMN submitter from exceeding a specified production limit without performing specific tests to determine the health or environmental effects of a substance, the tests are described in this unit. As explained further in Unit VI., the SNUR for such substances contains the same production limit, and exceeding the production limit is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a significant new use notice at least 90 days in advance. In addition, this unit

describes tests that are recommended by EPA to provide sufficient information to evaluate the substance, but for which no production limit has been established in the section 5(e) order. Descriptions of recommended tests are provided for informational purposes.

The SNURs on certain PMN substances (P–88–436, P–88–2540, P–89–396, P–89–672, P–89–676, P–89–836, and P–89–837) regulate chemical substances subject to a section 5(e) order solely on a finding under TSCA section 5(e)(1)(A)(ii)(II) of substantial production volume and significant or substantial human exposure. In each of these cases, there was limited or no toxicity data available for the PMN substance, potentially substantial production volume, and potentially significant or substantial human exposure. In such cases, EPA regulates new chemical substances under section 5(e) by requiring certain toxicity tests. Substances with potentially substantial human exposures would be subject to health effects testing such as mutagenicity, acute effects, and subchronic effects.

Some of the earlier section 5(e) orders contain provisions that required wording changes to be converted into SNURs. In some instances, the SNUR text is merely more detailed (e.g., the provision for a written hazard communication program in § 721.72(a) is more detailed than the hazard communication provisions in some earlier orders or the provision for dermal protection in § 721.63(a)(1) and (a)(3) is worded differently from dermal protection provisions in some earlier orders). In such cases, EPA considers the SNUR and section 5(e) provisions to be generally equivalent. Moreover, the companies which entered into the more limited hazard communication provisions of the earlier 5(e) orders, as well as those companies covered by the SNURs, are generally subject to the requirements of the Occupational Safety and Health Administration's hazard communication standard at 29 CFR 1910.1200. Therefore, EPA believes it equitable and minimally burdensome to include in the SNUR those requirements of the hazard communication standard that are generally considered to be acceptable in informing workers of potential chemical hazards.

In some instances, however, a particular requirement may be so differently worded from the corresponding SNUR provision that the basis of the SNUR provision is not evident. Where this occurs, the preamble below explains why the SNUR provision was chosen.

As presented in the regulatory text that follows, all 23 of these substances except P–89–396, P–89–672, P–89–676, P–89–836 and P–89–837 are exempt from § 721.63 and/or § 721.72 provisions if they are present at low levels and are not expected to reconcentrate in mixtures. The exemptions are provided in §§ 721.63(b) and 721.72(e) and their application will make these SNURs consistent with those based on more recent section 5(e) consent orders. If a substance was determined to pose a cancer concern by structural-activity analysis or actual data (as described in this manner in the preamble that follows), it is exempt only if the level is 0.1 percent or less. All other substances must not exceed a 1.0 percent level in a mixture in order to qualify the exemption. EPA's decision to allow exemptions at these levels was based on the Occupational Safety and Health Administration's Hazard Communication Standard exemption of MSDS requirements in § 1910.1200(g)(2)(i)(C)(1) and (2) when substances are present at such low levels in mixtures.

Each of these SNURs involves information which has been claimed as CBI. When a generic chemical name appears in this unit, the specific name is claimed as CBI. In addition, some of the substances identified in this unit involve a production limit as a significant new use. Because the production limit is contained in the section 5(e) order and has been claimed as CBI, the regulatory text incorporates the production limit by reference to the section 5(e) order. The procedures for determining whether a specific substance and/or a specific significant new use are CBI are covered by a specific SNUR are described in Unit VII.

PMN No.: P–84–393

Chemical Name: (generic) 2-Chloro-*N*-methyl-*N*-substituted acetamide.
CAS number: Not available.
Effective date of section 5(e) consent order: August 25, 1984.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health and the environment.
Toxicity concerns: Based on toxicity data on several mammalian species for structurally analogous substances, this substance may cause chronic toxicities including adverse kidney and liver effects. Aquatic toxicity concerns identified in the original order were resolved.
Recommended testing: Data on human systemic effects may be developed in a 90–day oral subchronic toxicity study using the rat.
CFR citation: 40 CFR 721.224.

PMN No.: P–84–491

Chemical Name: (generic) Substituted aliphatic acid halide.
CAS number: Not available.
Effective date of section 5(e) consent order: October 4, 1984.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concerns: Data on similar substances showed a statistically significant production of pulmonary tumors following intraperitoneal injection in a short-term, limited bioassay. In addition, the PMN submitter provided results from Ames testing. This substance was positive in at least one strain of test organism both with and without activation.
Recommended testing: A 2–year bioassay in rodents would be necessary to further evaluate the potential risks of this substance.
CFR citation: 40 CFR 721.263.

PMN No.: P–84–860

Chemical Name: (generic) Disubstituted nitrobenzene.
CAS number: Not available.
Effective date of section 5(e) consent order: December 27, 1984.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concerns: Data on structurally similar substances show that this substance and its metabolites may be carcinogenic.
Recommended testing: A 2–year bioassay in rodents would be necessary to further evaluate the potential risks of this substance.
CFR citation: 40 CFR 721.1477.

PMN No.: P–84–951

Chemical Name: (generic) Substituted aminobenzoic acid ester.
CAS number: Not available.
Effective date of section 5(e) consent order: December 27, 1984.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concerns: Data on structurally similar substances show that this

substance and its metabolites may be carcinogenic.
Recommended testing: A 2-year bioassay in rodents would be necessary to further evaluate the potential risks of this substance.
CFR citation: 40 CFR 721.979.

PMN No.: P-84-968

Chemical Name: (generic) Alkyl ester.
CAS number: Not available.
Effective date of section 5(e) consent order: April 20, 1985.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health, and is expected to be produced in substantial quantities and there may significant or substantial human exposure.
Toxicity concerns: Data on structurally similar substances indicate that this substance may produce adverse developmental and hepatotoxic effects.
Recommended testing: Results from a standard developmental toxicity study in two mammalian species by the oral or inhalation route of exposure and a 90-day subchronic study in rats by the oral or inhalation route of exposure would enable the Agency to reach a determination on potential toxicity of this substance. The PMN submitter has agreed not to exceed the production limit without performing these tests.
CFR citation: 40 CFR 721.978.

PMN No.: P-85-1180

Chemical Name: (generic) *tert*-Amyl peroxy alkylene ester.
CAS number: Not available.
Effective date of section 5(e) consent order: May 25, 1986.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concerns: Based on consideration of mutagenicity and carcinogenicity test data from similar substances this substance may be carcinogenic.
Recommended testing: A 2-year rodent bioassay could provide the data needed to evaluate this potential effect and to determine whether this substance presents a carcinogenic risk.
CFR citation: 40 CFR 721.377.

PMN No.: P-85-1370

Chemical Name: (generic) Alkyl (heterocyclicyl) phenylazohetero monocyclic polyone.
CAS number: Not available.
Effective date of section 5(e) consent order: July 2, 1986.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concerns: Structural analogues have been shown to cause developmental toxicity in test animals. This substance may cause the same toxic effect.
Recommended testing: Test data from a standard developmental toxicity study conducted in two mammalian species could provide a basis for further evaluation of potential risks. The PMN submitter has agreed not to exceed the production limit without completing this study.
CFR citation: 40 CFR 721.1760.

PMN No.: P-86-66

Chemical Name: (generic) Substituted triazine isocyanurate.
CAS number: Not available.
Effective date of section 5(e) consent order: December 23, 1988.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concerns: By structural analogy to similar substances which have tested positive for neurotoxicity, it was determined that this substance may cause neurotoxic effects.
Recommended testing: The potential risk of neurotoxicity following exposure to this substance can be further evaluated with data from a functional observational battery and motor activity test using rats. The PMN submitter has agreed not to exceed the production limit without completing this study.
CFR citation: 40 CFR 721.2194.

PMN No.: P-86-136

Chemical Name: (generic) Alkyl (heterocyclicyl) phenylazohetero monocyclic polyone, ((alkylimidazolyl) methyl) derivative.
CAS number: Not available.
Effective date of section 5(e) consent order: July 2, 1986.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concerns: Structural analogues have shown to cause developmental toxicity in test animals. This substance may cause the same toxic effect.
Recommended testing: Test data from the standard developmental toxicity study of P-85-1370 could be used to evaluate the risks posed by this substance. The PMN submitter has agreed not to exceed the production limit without completing this study.
CFR citation: 40 CFR 721.1763.

PMN No.: P-86-387

Chemical Name: (generic) Modified acrylic ester.
CAS number: Not available.
Effective date of section 5(e) consent order: July 11, 1986.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concerns: Data from structurally similar substances show that this substance may be carcinogenic and neurotoxic.
Recommended testing: A 2-year rodent bioassay would provide data to further evaluate the potential risk of carcinogenicity. A repeated oral exposure study with a functional observational battery and neuropathology would provide data needed to further evaluate the potential risk of neurotoxicity.
CFR citation: 40 CFR 721.977.

PMN No.: P-86-1098

Chemical Name: (generic) Halonitrobenzoic acid, substituted.
CAS number: Not available.
Effective date of section 5(e) consent order: January 28, 1987.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concerns: The structural analogue of an expected metabolite for this substance is associated with reproductive effects. Therefore, this substance may cause reproductive effects.
Recommended testing: A 90-day subchronic inhalation study for reproductive toxicity with gross histopathology of the male reproductive organs would provide data to help characterize this potential risk.
CFR citation: 40 CFR 721.1478.

PMN No.: P-86-1771

Chemical Name: (generic) Alkylbisoxyalkyl (substituted-1,1-dimethylethylphenyl) benzotriazole.
CAS number: Not available.

Effective date of section 5(e) consent order: April 3, 1987.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concerns: By analogy to similar substances with known toxicities, this substance may present a risk of toxicity to the liver, kidney, spleen, seminal vesicles, and thymus gland.
Recommended testing: Data from a 90–day subchronic study with the substance administered by gavage would assist the Agency to perform a reasoned evaluation of these chronic effects of concern. The PMN submitter has agreed not to exceed the production limit without completing this study.
CFR citation: 40 CFR 721.580.

PMN No.: P–87–723

Chemical Name: (generic) Metalated alkylphenol copolymer.
CAS number: Not available.
Effective date of section 5(e) consent order: August 1, 1988.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment.
Toxicity concerns: Based on acute ecotoxicity data on this substance, the Agency concluded that the substance is acutely toxic to some aquatic organisms and may pose a risk of chronic aquatic toxicity as well.
Recommended testing: An acute daphnia assay using activated carbon within the test medium needs to be performed for this substance.
CFR citation: 40 CFR 721.1272.

PMN No.: P–88–270

Chemical Name: (generic) Nitrophenoxylalkanoic acid substituted thiazino hydrazide.
CAS number: Not available.
Effective date of section 5(e) consent order: May 12, 1988.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concerns: Structurally similar substances have been shown to cause cancer when tested in long term bioassays. This substance also belongs to a class of substances that are likely to be mutagenic. The substance may cause both carcinogenicity and mutagenicity.
Recommended testing: A 2–year bioassay could provide the data to enable a reasoned evaluation of the potential risks.
CFR citation: 40 CFR 721.1232.

PMN No.: P–88–436

Chemical Name: (generic) Poly(substituted triazinyl) piperazine.
CAS number: Not available.
Effective date of section 5(e) consent order: March 17, 1989.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be significant or substantial human exposure.
Recommended testing: A 28-day oral assay (OECD 407); an Ames assay (40 CFR 798.5265); and an *in vivo* mouse micronucleus test (40 CFR 798.5395). The PMN submitter has agreed not to exceed the production limit without completing these studies.
CFR citation: 40 CFR 721.2196.

PMN No.: P–88–831

Chemical Name: Phenol, 4,4'-(9*H*-fluoren-9-ylidene)bis.
CAS number: Not available.
Effective date of section 5(e) consent order: March 7, 1989.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concerns: Data on this substance as well as analogue data cause concern that the substance may be toxic to both the liver and kidney.
Recommended testing: Data gathered from a 90–day subchronic dermal toxicity test in rabbits (40 CFR 798.2250) would enable further evaluation of these potential risks. The PMN submitter has agreed not to exceed the production limit without completing this study.
CFR citation: 40 CFR 721.1536.

PMN No.: P–88–837

Chemical Name: (generic) Diglycidyl ether of disubstituted carbopolycyle.
CAS number: Not available.
Effective date of section 5(e) consent order: March 7, 1989.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concerns: Based on data obtained on structurally similar substances, this substance may cause mutagenicity, carcinogenicity, and reproductive effects in males. Actual test data submitted showed liver toxicity.
Recommended testing: A 90–day oral subchronic toxicity for effects in reproductive organs with particular attention to toxicity to the testes and liver, plus a 2–year bioassay (40 CFR 798.2650) would provide the data necessary for further evaluation of these risks. The PMN submitter has agreed not to exceed the production limit without completing the 90–day study.
CFR citation: 40 CFR 721.1030.

PMN No.: P–88–2540

Chemical Name: (generic) Nitrate polyether polyol.
CAS number: Not available.
Effective date of section 5(e) consent order: February 16, 1990.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be significant or substantial human exposure.
Recommended testing: A 28–day oral assay (OECD Guideline No. 407) including neurotoxicity battery (40 CFR 798.6050); an acute oral test according to (40 CFR 798.1175). The PMN submitter has agreed not to exceed the production limit without completing these studies.
CFR citation: 40 CFR 721.1712.

PMN No.: P–89–396

Chemical Name: (generic) Sulphur-bridged substituted phenols.
CAS number: Not available.
Effective date of section 5(e) consent order: February 6, 1990.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be significant or substantial human exposure.
Recommended testing: A 28–day oral assay (OECD Guideline No. 407) including neurotoxicity battery (40 CFR 798.6050) with the highest dose set at 1,000 mg/kg and for highest dose group extending histopathological examination to include testes, ovaries and lungs; an acute oral test according to 40 CFR 798.1175; an Ames assay (40 CFR 798.5265); a mouse micronucleus test with substance administered intraperitoneally (40 CFR 798.5395); and a developmental toxicity using oral administration on one species (40 CFR 798.4900). The PMN submitter has agreed not to exceed the production limit without completing these studies.
CFR citation: 40 CFR 721.1544.

PMN No.: P-89-672

Chemical Name: (generic) Alkanoic acid, butanediol and cyclohexanealkanol polymer.
CAS number: Not available.
Effective date of section 5(e) consent order: January 26, 1990.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be significant or substantial human exposure.
Recommended testing: A 28-day oral assay (OECD Guideline No. 407) include neurotoxicity battery (40 CFR 798.6050) and for highest dose group extend histopathological examination to include testes, ovaries and lungs, plus neuropathology; an acute oral test according to 40 CFR 798.1175; an Ames assay (40 CFR 798.5265); and a mouse micronucleus test with substance administered intraperitoneally (40 CFR 798.5395). The PMN submitter has agreed not to exceed the production limit without completing these studies.
CFR citation: 40 CFR 721.1632.

PMN No.: P-89-676

Chemical Name: (generic) Distillates (petroleum), C(3-6), polymers with styrene and mixed terpenes.
CAS number: Not available.
Effective date of section 5(e) consent order: January 31, 1990.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be significant or substantial human exposure.
Recommended testing: A 28-day oral assay (OECD Guideline No. 407) neurotoxicity required (40 CFR 798.6050); an *in vivo* mouse micronucleus test (oral) (40 CFR 798.5395); and developmental toxicity test in rats (dietary) (40 CFR 798.4900). The PMN submitter has agreed not to exceed the production limit without completing these studies.
CFR citation: 40 CFR 721.880.

PMN No.: P-89-836

Chemical Name: (generic) Phosphorylated oxoheteromonocycle polyoxyethylene alkyl ether.
CAS number: Not available.
Effective date of section 5(e) consent order: February 22, 1990.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be significant or substantial human exposure.
Recommended testing: A 28-day oral assay (OECD Guideline No. 407) including neurotoxicity battery (40 CFR 798.6050); an Ames assay (40 CFR 798.5265); and an *in vivo* mouse micronucleus test (40 CFR 798.5395). Results from these tests are also applicable for P-89-837. The PMN submitter has agreed not to exceed the production limit without completing these studies.
CFR citation: 40 CFR 721.1033.

PMN No.: P-89-837

Chemical Name: (generic) Phosphorylated caprolactone, alkyloxoheteromono-cycle and polyalkylene polyol alkyl ether.
CAS number: Not available.
Effective date of section 5(e) consent order: February 22, 1990.
Basis for section 5(e) consent order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(II) of TSCA based on a finding that this substance is expected to be produced in substantial quantities and there may be significant or substantial human exposure.
Recommended testing: A 28-day oral assay (OECD Guideline No. 407) including neurotoxicity battery (40 CFR 798.6050); an Ames assay (40 CFR 798.5265); and an *in vivo* mouse micronucleus test (40 CFR 798.5395). Testing performed on P-89-836 will be applicable to P-89-837 as well.
CFR citation: 40 CFR 721.740.

IV. Objectives and Rationale of the Rule

During review of the PMNs submitted for the chemical substances that are subject to this SNUR, EPA concluded that for certain of the substances, regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health effects of the substance. The basis for such findings is outlined in Unit III. of this preamble. Based on these findings, a section 5(e) consent order requiring the use of appropriate controls was negotiated with the PMN submitter, and the SNUR provisions for such substances are consistent with the provisions of the section 5(e) orders.

EPA is issuing this SNUR for specific chemical substances which have undergone premanufacture review to ensure the following objectives: That EPA will receive notice of any company's intent to manufacture, import, or process a listed chemical substance for a significant new use before that activity begins; that EPA will have an opportunity to review and evaluate data submitted in a SNUR notice before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for a significant new use; that, when necessary to prevent unreasonable risks, EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before a significant new use of that substance occurs; and that all manufacturers, importers, and processors of the same chemical substance which is subject to a section 5(e) order are subject to similar requirements.

V. Direct Final Procedure

EPA is issuing these SNURs as direct final rules, as described in 40 CFR 721.160(c)(3) and 721.170(d)(4). In accordance with 40 CFR 721.160(c)(3)(ii), these rules will be effective October 9, 1990, unless EPA receives a written notice by September 10, 1990 that someone wishes to make adverse or critical comments on EPA's actio-n. If EPA receives such a notice, EPA will publish a notice to withdraw the direct final SNUR(s) for the specific substance(s) to which the adverse or critical comments apply. EPA will then propose a SNUR for the specific substance(s) providing a 30-day comment period.

This action establishes SNURs for several chemical substances. Any person who submits a notice of intent to submit adverse or critical comments must identify the substance and the new use to which it applies. EPA will not withdraw a SNUR for a substance not identified in a notice.

VI. Test Data and Other Information

EPA recognizes that section 5 of TSCA does not require developing any particular test data before submission of a SNUR notice. Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. In cases where a section 5(e) order recommends certain testing, Unit III. of this preamble lists those recommended tests.

However, EPA has established production limits in the section 5(e) orders for several of the substances regulated under this rule, in view of the lack of data on the potential health risks that may be posed by the significant new uses or increased exposure to the substances. These production limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these substances. Under recent consent orders, each PMN

submitter is required to submit each study at least 16 weeks (earlier orders required submissions at least 12 weeks) before reaching the specified production limit. A listing of the tests specified in the section 5(e) orders is included in Unit III. of this preamble. The SNURs contain the same production limits as the consent orders. Exceeding these production limits is defined as a significant new use.

The recommended studies may not be the only means of addressing the potential risks of the substance. However, SNUR notices submitted for significant new uses without any test data may increase the likelihood that EPA will take action under section 5(e), particularly if satisfactory test results have not been obtained from a prior submitter. EPA recommends that potential SNUR notice submitters contact EPA early enough so that they will be able to conduct the appropriate tests before reaching the production limit.

SNUR notice submitters should be aware that EPA will be better able to evaluate SNUR notices which provide detailed information on: (1) Human exposure and environmental release that may result from the significant new use of the chemical substances; (2) potential benefits of the substances; and (3) information on risks posed by the substances compared to risks posed by potential substitutes.

VII. Procedural Determinations

EPA is establishing through this rule some significant new uses which have been claimed as CBI. EPA has decided it is appropriate to keep this information confidential to protect the interest of the original PMN submitter. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI. This procedure appears in 40 CFR 721.575(b)(1) and is similar to that in § 721.11 for situations where the chemical identity of the substance subject to a SNUR is CBI. This procedure is cross-referenced in each of these SNURs.

A manufacturer or importer may request EPA to determine whether a proposed use would be a significant new use under this rule. Under the procedure from § 721.575(b)(1), a manufacturer or importer must show that it has a *bona fide* intent to manufacture or import the substance and must identify the specific use for which it intends to manufacture or import the substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or import the substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.575(b)(1) with that under § 721.11 into a single step.

If a manufacturer or importer is told that the production volume identified in the *bona fide* submission would not be a significant new use, i.e. it is below the level that would be a significant new use, that person can manufacture or import the substance as long as the aggregate amount does not exceed that identified in the *bona fide* submission to EPA. If the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use. EPA is considering whether to adopt a special procedure for use when CBI production volumes are designated as significant new uses. Under that procedure, if a person showed a *bona fide* intent to manufacture or import the substance, under the procedure described in § 721.11, the person would automatically be told any production volume that would be a significant new use. Thus the person would not have to make multiple *bona fide* submissions to EPA for the same substance to remain in compliance with the SNUR, as could be the case under the procedures in § 721.575(b)(1).

VIII. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant "new" use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. A section 5(e) order has been issued in all these cases and notice submitters are prohibited by the section 5(e) orders from undertaking activities which EPA is designating as significant new uses. In cases where EPA has not received a Notice of Commencement (NOC) and the substance has not been added to the TSCA Inventory, no other person may commence such activities without first submitting a PMN. For substances for which an NOC has not been submitted at this time, EPA has concluded that the uses are not ongoing. However, EPA recognizes that in cases when chemical substances identified in these SNURs are added to the Inventory prior to the effective date of the rule, the substances may be manufactured, imported, or processed by other persons for a significant new use as defined in this rule before the effective date of the rule. However, all 23 of these substances have CBI chemical identities, and since EPA has received no corresponding post-PMN *bona fide* submissions, the Agency believes that it is highly unlikely that many, if any, of the significant new uses described in the following regulatory text are ongoing.

As discussed at 55 FR 17376, EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of this date of publication rather than as of the effective date of the rule. Thus, persons who begin commercial manufacture, import, or processing of the substances regulated through this SNUR will have to cease any such activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

EPA has promulgated provisions to allow persons to comply with these SNURs before the effective date. If persons were to meet the conditions of advance compliance in § 721.45(h) (53 FR 28354, July 17, 1988), those persons will be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between publication and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

IX. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substance subject to this rule. EPA's complete economic analysis is available in the public record for this rule (OPTS–50583).

X. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–50583). The record includes information considered by EPA in developing this rule.

A public version of this record containing nonconfidential materials is available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, located at Rm. NE–G004, 401 M St., SW., Washington, DC.

XI. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule will not be a "major" rule because it will not have an effect on the economy of $100 million or more, and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the cost for submitting a significant new use notice would be approximately $4,500 to $11,000, including a $2,500 user fee payable to EPA to offset EPA costs in processing the notice. EPA believes that, because of the nature of the rule and the substances involved, there will be few SNUR notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, EPA expects to receive few SNUR notices for the substances. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial, even if all of the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and have been assigned OMB control number 2070–0012.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewinginstructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Management and Budget, Paperwork Reduction Project (2070–0012), Washington, DC 20503.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: August 1, 1990.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. By adding new § 721.224 to subpart E to read as follows:

§ 721.224 2-Chloro-N-methyl-N-substituted acetamide (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance 2-chloro-*N*-methyl-*N*-substituted acetamide (PMN P–84–393) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i) through (a)(5)(iii), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 1.0 percent) and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (d), (e) (concentration set at 1.0 percent), (f) and (g)(1)(iv), (g)(2)(i) through (g)(2)(v), and (g)(3)(ii). The provisions of § 721.72(d) requiring employees to be provided with information on the location and availability of a written hazard communication program and MSDSs do not apply when the written program and MSDS are not required under § 721.72(a) and (c), respectively. The provision of § 721.72(g) requiring placement of specific information on a MSDS does not apply when a MSDS in not required under § 721.72(c).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g) and (p) (580,000 kg).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (e), (f) and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

3. By adding new § 721.263 to subpart E to read as follows:

§ 721.263 Substituted aliphatic acid halide (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance substituted aliphatic acid halide (PMN P–84–491) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i) through (a)(5)(iii), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (d), (e) (concentration set at 0.1 percent), (f) and (g)(1)(vii), (g)(2)(i) through (g)(2)(v), and (g)(4)(i) The provisions of § 721.72(d) requiring employees to be provided with information on the location and availability of a written hazard communication program and MSDSs do not apply when the written program and MSDS are not required under § 721.72(a) and (c), respectively. The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when an MSDS in not required under § 721.72(c).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k).

(iv) *Disposal.* Requirements as specified in 721.85(a)(1), (b)(1) and (c)(1). (In lieu of incineration, persons subject to this section may dispose of wastes containing the substance by chemically treating liquid wastes so that the first hydrolysis product is less than 10 ppm

prior to discharge or purifying the waste stream so that the first hydrolysis product is less than 10 ppm. Those purified waste streams may be reused or sold. All of the substance removed by these processes must be incinerated or treated and released as described in this paragraph (a)(2)(iv).)

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (e) through (f), (i) and (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

4. By adding new § 721.377 to subpart E to read as follows:

§ 721.377 tert-Amyl peroxy alkylene ester (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance *tert*-amyl peroxy alkylene ester (PMN P–85–1180) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (a)(3), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (c), (d), (e) (concentration set at 1.0 percent), (f) and (g)(1)(vii), (g)(2)(i), (g)(2)(v), (g)(4)(i), and (g)(5). The provision of § 721.72(d) requiring that employees to be provided with information on the location and availability of a written hazard communication program does not apply when the written program is not required under § 721.72(a).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2) and (a)(3), (b)(1), (b)(2) and (b)(3).

(v) *Release to water.* Requirements as specified in § 721.90(a)(2)(vi), (b)(2)(vi) and (c)(2)(vi).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

5. By adding new § 721.580 to subpart E to read as follows:

§ 721.580 Alkylbisoxyalkyl (substituted-1,1-dimethylethylphenyl) benzotriazole (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance alkylbisoxyalkyl (substituted-1,1-dimethylethylphenyl) benzotriazole (PMN P–86–1771) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(iv) through (a)(5)(vii), (a)(6)(i), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (c), (d), (e) (concentration set at 1.0 percent), (f) and (g)(1)(iv), (g)(2)(i) through (g)(2)(v), and (g)(5). The provision of § 721.72(d) requiring that employees be provided with information on the location and availability of a written hazard communication program does not apply when the written program is not required under § 721.72(a).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (light stabilizer for polymers) and (q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (e) through (g), and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

6. By adding new § 721.740 to subpart E to read as follows:

§ 721.740 Phosphorylated caprolactone, alkyloxoheteromonocycle and polyalkylene poiyol alkyl ether (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance phosphorylated caprolactone, alkyloxoheteromonocycle and polyalkylene polyol alkyl ether (PMN P–89–837) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows.

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a Material Safety Data Sheet (MSDS) as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who have received, or will receive, this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (h) and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

7. By adding new § 721.880 to subpart E to read as follows:

§ 721.880 Distillates (petroleum), C(3-6), polymers with styrene and mixed terpenes (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance distillates (petroleum), C(3-6), polymers with styrene and mixed terpenes (PMN P–89–676) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows.

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a Material Safety Data Sheet (MSDS) as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who have received, or will receive, this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (h) and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

8. By adding new § 721.977 to subpart E to read as follows:

§ 721.977 Modified acrylic ester (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance modified acrylic ester (PMN P–86–387) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(viii) through (a)(5)(xi), (a)(6)(ii), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (c), (d), (e) (concentration set at 0.1 percent), (f) and (g)(1)(iii), (g)(1)(vii), (g)(2)(i) through (g)(2)(v), and (g)(5). The provision of § 721.72(d) requiring that employees to be provided with information on the location and availability of a written hazard communication program does not apply when the written program is not required under § 721.72(a).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l).

(iv) *Disposal.* Requirements as specified in 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1) and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (e) through (g), and (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

9. By adding new § 721.978 to subpart E to read as follows:

§ 721.978 Alkyl ester (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance alkyl ester (PMN P–84–968) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (b) (concentration set at 0.1 percent) and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(iv), (g)(1)(ix), (g)(2)(i), (g)(2)(v), and (g)(5). The provision of § 721.72(d) requiring that employees to be provided with information on the location and availability of a written hazard communication program does not apply when the written program is not required under § 721.72(a). The provision of § 721.72(g) requiring placement of specific information on a label does not apply when a label is not required under § 721.72(b).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) and (q).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(3), (b)(3), and (c)(3).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (e), (f), (i) and (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

10. By adding new § 721.979 to subpart E to read as follows:

§ 721.979 Substituted aminobenzoic acid ester (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance substituted aminobenzoic acid ester (PMN P–84–951) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1) and (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vii) and (g)(2)(v). The provisions of § 721.72(d) requiring employees to be provided with information on the location and availability of a written hazard communication program and MSDSs do not apply when the written program and MSDS are not required under § 721.72(a) and (c), respectively. The provision of § 721.72(g) requiring placement of specific information on a MSDS does not apply when a MSDS in not required under § 721.72(c).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (e), (f), and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

11. By adding new § 721.1030 to subpart E to read as follows:

§ 721.1030 Diglycidyl ether of disubstituted carbopolycyle (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance diglycidyl ether of disubstituted carbopolycyle (PMN P–88–837) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(iv) through (a)(5) (vii), (a)(6)(i), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b), (c), (d), (e) (concentration set at 0.1 percent), (f) and (g)(1)(iv) through (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), (g)(2)(v) and (g)(5). The provision of § 721.72(d) requiring that employees to be provided with information on the location and availability of a written hazard communication program does not apply when the written program is not required under § 721.72(a).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) and (q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c) and (e) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

12. By adding new § 721.1033 to subpart E to read as follows:

§ 721.1033 Phosphorylated oxoheteromonocycle polyoxyethylene alkyl ether (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance phosphorylated oxoheteromonocycle polyoxyethylene alkyl ether (PMN P–89–836) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows.

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a Material Safety Data Sheet (MSDS) as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who have received, or will receive, this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (h) and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

13. By adding new § 721.1232 to subpart E to read as follows:

§ 721.1232 Nitrophenoxylalkanoic acid substituted thiazino hydrazide (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance nitrophenoxylalkanoic acid substituted

thiazino hydrazide (PMN P–88–270) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(iv) through (a)(5)(vii), (a)(6)(i), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b), (c), (d), (e) (concentration set at 1.0 percent), (f) and (g)(1)(iv) (also acute toxicity), (g)(2)(i) through (g)(2)(v), (g)(4)(i) and (g)(5). The provision of § 721.72(d) requiring that employees to be provided with information on the location and availability of a written hazard communication program does not apply when the written program is not required under § 721.72(a).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g) (industrial intermediates only).

(iv) *Disposal.* Requirements as specified in 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1) and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

14. By adding new § 721.1272 to subpart E to read as follows:

§ 721.1272 Metalated alkylphenol copolymer (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance metalated alkylphenol copolymer (PMN P–87–723) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72(b)(1)(i)(C), (b)(1)(ii) through (b)(1)(iv), (b)(2), (c)(1), (e) (concentration set at 0.1 percent), (f), (g)(3)(ii), (g)(4)(i), (g)(5).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j)(industrial coating material) and (q).

(iii) *Disposal.* Requirements as specified in 721.85(a)(1), (a)(3), (b)(1) and (b)(3).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(2), (a)(4) (receiving stream concentration may not be greater than 1.5 ppb for more than 4 days per year), (b)(2),(b)(4) (receiving stream concentration may not be greater than 1.5 ppb for more than 4 days per year), (c)(2) and (c)(4) (receiving stream concentration may not be greater than 1.5 ppb for more than 4 days per year).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a), (b), (c) and (f) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

15. By adding new § 721.1477 to subpart E to read as follows:

§ 721.1477 Disubstituted nitrobenzene (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance disubstituted nitrobenzene (PMN P–84–860) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (d), (e) (concentration set at 0.1 percent), (f) and (g)(1)(vii), (g)(2)(i), (g)(2)(v). The provisions of § 721.72(d) requiring employees to be provided with information on the location and availability of a written hazard communication program and MSDSs do not apply when the written program and MSDS are not required under § 721.72(a) and (c), respectively. The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when a MSDS in not required under § 721.72(c).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(iv) *Disposal.* Requirements as specified in 721.85(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (e), (f) and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

16. By adding new § 721.1478 to subpart E to read as follows:

§ 721.1478 Halonitrobenzoic acid, substituted (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance halonitrobenzoic acid, substituted (PMN P–86–1098) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(iv) through (a)(5)(vii), (a)(6)(i), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b), (c), (d), (e) (concentration set at 1.0 percent), (f) and (g)(1)(vi), (g)(2)(i) through (g)(2)(v), and (g)(5). The provision of § 721.72(d) requiring that employees to be provided with information on the location and availability of a written hazard communication program does not apply when the written program is not required under § 721.72(a).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k).

(iv) *Disposal.* Requirements as specified in 721.85(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (e) through (g) and (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

17. By adding new § 721.1536 to subpart E to read as follows:

§ 721.1536 Phenol, 4,4'-(9H-fluoren-9-ylidene)bis-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance phenol, 4,4'-(9*H*-fluoren-9-ylidene)bis- (PMN P–88–831) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(iv) through (a)(5)(vii), (a)(6)(i), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (d), (e) (concentration set at 1.0 percent), (f) and (g)(1)(iv), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), and (g)(2)(v). The provisions of § 721.72(d) requiring employees to be provided with information on the location and availability of a written hazard communication program and MSDSs do not apply when the written program and MSDS are not required under § 721.72(a) and (c), respectively. The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when an MSDS in not required under § 721.72(c).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) and (q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (e) through (g), and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

18. By adding new § 721.1544 to subpart E to read as follows:

§ 721.1544 Sulfur bridged substituted phenols (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance sulfur bridged substituted phenols (PMN P–89–396) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows.

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a Material Safety Data Sheet (MSDS) as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who have received, or will receive, this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (h) and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

19. By adding new § 721.1632 to subpart E to read as follows:

§ 721.1632 Alkanoic acid, butanediol and cyclohexanealkanol polymer (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance alkanoic acid, butanediol, and cyclohexanealkanol polymer (PMN P–89–672) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows.

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a Material Safety Data Sheet (MSDS) as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who have received, or will receive, this substance from the employer are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q) (293,000 kg).

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (h) and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

20. By adding new § 721.1712 to subpart E to read as follows:

§ 721.1712 Nitrate polyether polyol (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance nitrate polyether polyol (PMN P88-2540) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of this substance without providing risk notification as follows.

(A) If as a result of the test data required under the section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health, the employer must incorporate this new information, and any information on methods for protecting against such risk, into a Material Safety Data Sheet (MSDS) as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substance is reintroduced into the workplace.

(B) The employer must ensure that persons who have received, or will receive, this substance from the employer are provided anMSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c) , (h) and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

21. By adding new § 721.1760 to subpart E to read as follows:

§ 721.1760 Alkyl(heterocyclicyl) phenylazohetero monocyclic polyone (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance alkyl (heterocyclicyl) phenylazohetero monocyclic polyone (PMN P–85–1370) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(iv) through (a)(5)(vii), (a)(6)(i) through (a)(6)(iii), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(d), (e) (concentration set at 1.0 percent), (f) and (g)(1)(ix), (g)(2)(i) through (g)(2)(v) and (g)(4). The provisions of § 721.72(d) requiring employees to be provided with information on the location and availability of a written hazard communication program and MSDSs do not apply when the written program and MSDS are not required under § 721.72(a) and (c), respectively.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g) (as intermediates to manufacture dyes for coloring pulp or paper only) and (q).

(iv) *Disposal.* Requirements as specified in 721.85(a)(1), (b)(1) and (c)(1).

(v) *Release to water.* Requirements as specified in § 721.90(a)(2)(iv), (b)(2)(iv) and (c)(2)(iv).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (f), (i), (j) and (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

22. By adding new § 721.1763 to subpart E to read as follows:

§ 721.1763 Alkyl(heterocyclicyl) phenylazohetero monocyclic polyone, ((alkylimidazolyl) methyl) derivative (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance alkyl (heterocyclicyl) phenylazohetero momocyclic polyone, ((alkylimidazolyl) methyl) derivative (PMN P–86–136) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(iv) through (a)(5)(vii), (a)(6)(i), (a)(6)(ii) and (a)(6)(iii), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (d), (e) (concentration set at 1.0 percent), (f) and (g)(1)(ix), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), and (g)(2)(v). The provisions of § 721.72(d) requiring employees to be provided with information on the location and availability of a written hazard communication program and MSDSs do not apply when the written program and MSDS are not required under § 721.72(a) and (c), respectively. The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when an MSDS is not required under § 721.72(c).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g), (k) and (q). The term intermediate as used in § 721.80(g) is defined as intermediate for manufacture of dyes for coloring pulp or paper.

(iv) *Disposal.* Requirements as

specified in 721.85(a)(1), (b)(1) and (c)(1).

(v) *Release to water.* Requirements as specified in § 721.90(a)(2), (b)(2) and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, andprocessors of this substance, as specified in § 721.125(a) through (c), (e), (f), (i) and (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

23. By adding new § 721.2194 to subpart E to read as follows:

§ 721.2194 Substituted triazine isocyanurate (generic name).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance substituted triazine isocyanurate (PMN P–86–66) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(iv) through (a)(5)(vii), (a)(6)(i), (a)(6)(ii) and (a)(6)(iii), (b) (concentration set at 1.0 percent) and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(b)(2), (d), (e) (concentration set at 1.0 percent), (f) and (g)(1)(iii), (g)(2)(i), (g)(2)(ii) and (g)(2)(iii). The provisions of § 721.72(d) requiring employees to be provided with information on the location and availability of a written hazard communication program and MSDSs do not apply when the written program and MSDS are not required under § 721.72(a) and (c), respectively. The provision of § 721.72(g) requiring placement of specific information on an MSDS does not apply when an MSDS is not required under § 721.72(c).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (j) (as a curing agent for epoxy resins), and (q).

(iv) *Disposal.* Requirements as specified in 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1) and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (e) through (g), and (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

24. By adding new § 721.2196 to subpart E to read as follows:

§ 721.2196 Poly(substituted triazinyl) piperazine (generic name).

(a) *Chemical substance and significant new uses subject to reporting.*(1) The chemical substance poly(substituted triazinyl) piperazine (PMN P–88–436) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72(b)(2),(c),(e), (f), (g)(1) (statement—health effects not fully determined), (g)(2)(i) through (iii) and (g)(5).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (c), (g), and (h).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070–0012)

[FR Doc. 90-18552 Filed 8–8–90; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6788

[AZ-930-00-4214-10; A-22473]

Withdrawal and Reservation of the Mineral Estate, Fort Huachuca Military Reservation; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 2,040 acres of the mineral estate located within the boundaries of the Fort Huachuca Military Reservation, from location and entry under the mining laws for a period of 20 years.

EFFECTIVE DATES: August 9, 1990.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602–640–5509.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public mineral estate is hereby withdrawn from location or entry under the United States mining laws (30 U.S.C. ch. 2) in order to provide for the continued uninterrupted use of the land as an integral part of the East Range, Fort Huachuca, Arizona. The surface of the land is either owned or leased by the withdrawing Agency, Department of the Army.

Gila and Salt River Meridian

T. 20 S., R. 20 E.,
Sec. 26, SE¼SW¼;
Sec. 33, S½SE¼;
Sec. 34, S½NW¼, and SE¼;
T. 20 S., R. 21 E.,
Sec. 19, SE¼;
Sec. 31, S½, NE¼, and E½NW¼.
T. 21 S., R. 20 E.,
Sec. 5, E½SE¼;
Sec. 8, E½NE¼;
Sec. 10, SE¼;
Sec. 11, NE¼;
Sec. 13, SE¼;
Sec. 15, NE¼;
Sec. 24, NE¼.

The areas described aggregate 2,040 acres in Cochise County.

2. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary

determines that the withdrawal shall be extended.

Dated: July 31, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-18675 Filed 8-8-90; 8:45 am]

BILLING CODE 4310-32-M

43 CFR Public Land Order 6789

[AK-932-00-4214-10; A-026010, A-027005]

Partial Revocation of Public Land Order No. 1094 and Public Land Order No. 1127, as Amended, for Selection of Lands by the State of Alaska; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes two public land orders insofar as they affect 749 acres of National Forest System lands withdrawn for use by the Forest Service, Department of Agriculture, for public service sites. The lands are no longer needed for the purpose for which they were withdrawn. This action will also accommodate community grant selections AA-17587, AA-57977, and AA-71609, filed by the State of Alaska and approved by the Department of Agriculture pursuant to section 6(a) of the Alaska Statehood Act. Any lands described herein that are not conveyed to the State of Alaska will be subject to the terms and conditions of the national forest reservation and any other withdrawals of record.

EFFECTIVE DATE: August 9, 1990.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 1094 and Public Land Order No. 1127, as amended, which withdrew lands within the Chugach National Forest for use by the Forest Service for public service sites, are hereby revoked as to the following described lands:

Seward Meridian

Seward Highway/Hope Highway Junction (A-026010)

A tract extending 10 chains on each side of the centerline of the Seward-Anchorage Highway beginning at Station 1474+00 Section C and extending along and parallel to the highway centerline to Station 1507+60 of the Hope Highway Section D, approximate latitude 60°47' N., longitude 149°26' W., located within the following described area:

T. 8 N., R. 1 W. (unsurveyed),
Sec. 15.

The area described contains approximately 74 acres.

Snug Harbor Road (A-027005)

A strip of land 25 chains (1,650 feet) in width paralleling the southwest shore of Kenai Lake, located within the following described areas:

T. 4 N., R. 2 W. (unsurveyed),
Sec. 18;
T. 4 N., R. 3 W. (unsurveyed),
Secs. 1, 2, 12, and 13.

The area described contains approximately 675 acres.

The areas described aggregate a total of approximately 749 acres.

2. Subject to valid existing rights, the lands described above are hereby opened to selection by the State of Alaska under the Alaska Statehood Act of July 7, 1958, 48 U.S.C. prec. 21 (1988).

3. As provided by section 6(g) of the Alaska Statehood Act, the State of Alaska is provided a preference right of selection for the lands described above for a period of ninety-one (91) days from the date of publication of this order, if the lands are otherwise available. Any of the lands described herein that are not conveyed to the State of Alaska will be subject to the terms and conditions of the Chugach National Forest reservation and any other withdrawals of record.

Dated: August 1, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-18719 Filed 8-8-90; 8:45 am]

BILLING CODE 4310-JA-M

[AK-932-00-4214-10; F-532]

43 CFR Public Land Order 6790

Partial Revocation of Public Land Order No. 4508 for Selection of Land by the State of Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order insofar as it affects 470 acres of public land withdrawn for the Department of Commerce for the Bender Mountain Geophysical Observatory. The land is no longer needed for the purpose for which it was withdrawn. This action will also open the land for selection by the State of Alaska, if such land is otherwise available. Any land described herein that is not conveyed to the State will be subject to the terms and conditions of withdrawals of record.

EFFECTIVE DATE: August 9, 1990.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), and by section 17(d)(1) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1616(d)(1) (1988), it is ordered as follows:

1. Public Land Order No. 4508 which withdrew public land for the Bender Mountain Geophysical Observatory is hereby revoked insofar as it affects the following described land:

Fairbanks Meridian

Commencing from the northeast corner of Sec. 16, T. 1 N., R. 1 W., the true point of beginning;
Thence N. 89°54' W., 5,280 feet more or less along the section line between Secs. 9 and 16 to the northwest corner of Sec. 16;
Thence S. 0°8' E., 2,970 feet more or less along the section line between Secs. 16 and 17;
Thence S. 89°54' E., 330 feet more or less;
Thence S. 0°8' E., 990 feet more or less to a point approximately 440 feet from the centerline of the existing road;
Thence easterly, with tangents approximately 440 feet from the centerline of the existing road, to a point on the section line between Secs. 15 and 16;
Thence N. 0°8' W., along the section line between Secs. 15 and 16, 3,290 feet more or less to the point of beginning.

The area described contains approximately 470 acres.

2. Subject to valid existing rights, the land described above is hereby opened to selection by the State of Alaska under either the Alaska Statehood Act of July 7, 1958, 48 U.S.C. prec. 21 (1988), or section 906(b) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635 (1988).

3. The State of Alaska selection made under section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1988), becomes effective without further action by the State upon publication of this public land order in the **Federal Register**. Lands not conveyed to the State will be subject to the terms and conditions of withdrawals of record.

Dated: August 1, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-18676 Filed 8-8-90; 8:45 am]

BILLING CODE 4310-JA-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 91046-0006]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure rescission and apportionment; request for comments.

SUMMARY: NOAA announces the rescission of a previous notice of closure for Domestic Annual Processing (DAP) of Greenland turbot in the Bering Sea and Aleutian Islands area (BSAI). NOAA also announces apportionment of amounts of Alaska groundfish to DAP Greenland turbot in the BSAI and to DAP Pacific Ocean perch in the Aleutian Islands subarea (AI). These actions are necessary to assure optimum use of groundfish in the BSAI and are intended to promote fishery objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area.

DATES: *Effective* from noon, Alaska local time (A.l.t.), August 3, 1990, until midnight, A.l.t., December 31, 1990.

Comments are invited on or before August 20, 1990.

ADDRESSES: Comments should be mailed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, NMFS, 907-586-7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP) governs the groundfish fishery in the exclusive economic zone within the BSAI under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and was implemented by regulations appearing at 50 CFR 611.93 and part 675.

Under § 675.20(a)(8), the directed DAP fishery for Greenland turbot was closed on April 12, 1990 (55 FR 14094, April 16, 1990) to provide bycatch amounts of Greenland turbot for other groundfish fisheries. The amounts of Greenland turbot needed for bycatch were less than expected; therefore, the Secretary of Commerce (Secretary) is rescinding the previously issued notice of closure and, thereby, allowing directed fishing for Greenland turbot in the BSAI by vessels in DAP operations. Rescission is effective August 3, 1990.

The TAC initially specified for Greenland turbot in the BSAI, under § 675.20(a)(2), is 7,000 metric tons (mt), of which 5,950 mt was apportioned to DAP (55 FR 1434, January 16, 1990). The TAC initially specified for Pacific Ocean perch in the AI, also determined under § 675.20(a)(2), is 6,600 mt, of which 5,610 mt was apportioned to DAP (55 FR 1434, January 16, 1990).

Apportionments

The Regional Director has determined that DAP fisheries will need additional amounts of Greenland turbot and Pacific Ocean perch. Therefore, under § 675.20(b)(1)(i), the Secretary is apportioning a total of 4,050 mt of unspecified reserve to DAP Greenland turbot and Pacific Ocean perch (see Table 1). After addition of the unspecified reserve, the amounts available to DAP will be 7,000 mt of Greenland turbot in the BSAI and 8,610 mt of Pacific Ocean perch in the AI.

These apportionments are consistent with paragraph § 675.20(a)(2)(i) and will not result in overfishing Greenland turbot or Pacific Ocean perch stocks. The revised TACs are less than or equal to the amounts specified as acceptable biological catch (Table 1).

Classification

This action is taken under § 675.20 (a)(8) and (b)(1)(i), and is in compliance with Executive Order 12291.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment or to delay the effective date of this notice. Immediate effectiveness of this notice is necessary to benefit U.S. fishermen participating in DAP fisheries for Greenland turbot and Pacific Ocean perch who would otherwise be prohibited from fishing due to a premature fishery closure. Interested persons are invited to submit comments in writing to the address previously cited on or before August 24, 1990.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801, *et seq.*

Dated: August 3, 1990.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

TABLE 1—BERING SEA/ALEUTIAN ISLANDS REAPPORTIONMENTS OF TAC

[All values are in metric tons]

	Current	This action	Revised
Greenland turbot (Bering Sea and Aleutian Islands area)			
TAC=7,000; ABC=7,000:			
DAP	5,950	+1,050	7,000
JVP	0		0
Pacific Ocean perch complex (Aleutian Islands subarea)			
TAC=6,600; ABC=16,000:			
DAP	5,610	+3,000	8,610
JVP	0		0
Total (TAC=2,000,000):			
DAP	1,495,660	+4,050	1,499,710
JVP	257,992		257,992
Reserves	246,348	−4,050	242,298

[FR Doc. 90-18620 Filed 8-3-90; 5:01 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 154
Thursday, August 9, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[FV-90-188-PR]

Expenses and Assessment Rate for Lemons Grown in California and Arizona

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate for the 1990–91 fiscal year under Marketing Order No. 910 for lemons produced in California and Arizona. Funds to administer this program are derived from assessments on handlers. This action is needed in order for the Lemon Administrative Committee (Committee), the agency responsible for the administration of the order, to have sufficient funds to meet the expenses of operating the program. This facilitates program operations. An annual budget of expenses is prepared by the Committee and submitted to the U.S. Department of Agriculture (Department) for approval.

DATES: Comments must be received by August 20, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, F&V, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2524–S, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 910 (7 CFR part 910), as amended, regulating the handling of lemons grown in California and Arizona. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This proposed rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of lemons grown in California and Arizona who are subject to regulation under the lemon marketing order and approximately 2,000 producers of lemons in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual revenues of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of lemon producers and handlers may be classified as small entities.

The lemon marketing order requires that the assessment rate for a particular fiscal year shall apply to all assessable lemons handled from the beginning of such year. An annual budget of expenses is prepared by the Committee and submitted to the Department for approval. The Committee consists of handlers, producers, and a non-industry member. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in thair local areas and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing anticipated expenses by expected shipments of lemons. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses. The recommended budget and rate of assessment are usually acted upon by the Committee shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Committee will have funds to pay its expenses.

The Committee met on July 3, 1990, and unanimously recommended 1990–91 marketing order expenditures of $970,000 and an assessment rate of $0.05 per carton of lemons. In comparison, 1989–90 marketing year budgeted expenditures were $775,000 and the assessment rate was $0.045 per carton. Assessment income for 1990–91 is estimated to total $867,000 based on anticipated fresh domestic shipments of 17,340,000 cartons of lemons. Reserve funds may be used to meet the projected deficit of $103,000 in assessment income.

Major budget categories for 1990–91 are $267,000 for field and compliance expenses, $241,300 for administrative and office salaries, and $122,000 for Committee member expenses. Comparable expenditures for the 1989–90 fiscal year are expected to be $224,750, $195,622, and $102,000, respectively. In addition, the Committee anticipates spending an additional $110,000 during 1990–91 on the relocation of the Committee's office from Los Angeles to Valencia.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of 10 days is appropriate because the budget and assessment rate approval for the program needs to be expedited. The Board needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 910 is proposed to be amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 910.228 is added to read as follows:

§ 910.228 Expenses and assessment rate.

Expenses of $970,000 by the Lemon Administrative Committee are authorized, and an assessment rate of $0.05 per carton of assessable lemons is established for the 1990–91 fiscal year ending on July 31, 1991. Unexpended funds from the 1989–90 fiscal year may be carried over as a reserve.

Dated: August 3, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–18603 Filed 8–8–90; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 965

[Docket No. FV–90–192]

Tomatoes Grown in the Lower Rio Grande Valley in Texas; Expenses

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures under Marketing Order No. 965 for the 1990–91 fiscal period. Authorization of this budget would permit the Texas Valley Tomato Committee to finance a varietal research project from operating reserve funds.

DATES: Comments must be received by August 20, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–447–2020.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 965, as amended (7 CFR part 965), regulating the handling of tomatoes grown in the counties of Cameron, Hidalgo, Starr, and Willacy in the State of Texas. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 5 handlers of Texas tomatoes under this marketing order, and 25 tomato producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of tomato producers and handlers may be classified as small entities.

The budget of expenses for the 1990–91 fiscal period was prepared by the Texas Valley Tomato Committee (committee), the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of Texas tomatoes. They are familiar with the committee's needs and with the costs of goods and services in their local area and are in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The committee met on July 10, 1990, and unanimously recommended that $2,500 of the committee's operating reserve funds be allocated to conduct a varietal research project. The projected reserve at the end of the 1990–91 fiscal period is $547.79, which would be carried over into the next fiscal period. This amount is within the maximum permitted by the order of two fiscal periods' expenses.

Since the proposed expenses would be financed from the committee's operating reserve, no additional costs would be imposed on handlers. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

This action should be expedited because the committee needs to finance this research project. The 1990–91 fiscal period for the program begins on August 1, 1990. The industry is aware of this action which was recommended by the committee at a public meeting. Therefore, it is found and determined that a comment period of 10 days is appropriate because the budget approval for this program needs to be expedited.

List of Subjects in 7 CFR Part 965

Marketing agreements, reporting and recordkeeping requirements, tomatoes.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 965 be amended as follows:

PART 965—TOMATOES GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

1. The authority citation for 7 CFR part 965 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 965.215 is added to read as follows:

§ 965.215 Expenses.

Expenses of $2,500 by the Texas Valley Tomato Committee are authorized for the fiscal period ending

July 31, 1991. Unexpended funds may be carried over as a reserve.

Dated: August 3, 1990.

William J. Doyle,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-18604 Filed 08-08-90; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 211 and 265

[Docket No. R-0703]

Regulation K—International Banking Operations; Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The International Banking Act of 1978 (Pub. L. 95-369) (the "IBA") requires the Board to review and revise its regulation governing the operation of Edge corporations every five years to ensure that the purposes of the Edge Act are being served in light of prevailing economic conditions and banking practices. The purposes of the Edge Act include enabling U.S. banking organizations to compete effectively with foreign-owned institutions and stimulating competition in the provision of international banking and financing services throughout the United States. The IBA requires the Board to consider these goals consistent with supervisory standards relating to the safety and soundness of U.S. banking organizations. As a result of its review under this provision, the Board is proposing for comment a number of changes to Regulation K, 12 CFR part 211. Changes are proposed to the provisions governing permissible foreign activities of U.S. banking organizations, including securities activities; investments by U.S. banking organizations under the general consent procedures and portfolio investments; qualified business entities to whom Edge corporations may provide full banking services in the United States; and case-by-case exemptions from the standard for qualifying foreign banking organizations. In addition, there are proposed technical and clarifying amendments to Regulation K and certain amendments to the Board's Rules Regarding Delegation of Authority, 12 CFR part 265.

DATES: Written comments must be submitted to the Board on or before September 30, 1990.

ADDRESSES: All comments, which should refer to Docket No. R-0703, should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, or delivered to room B-2233, 20th and Constitution Avenue, NW., Washington, DC, between the hours of 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Ricki Rhodarmer Tigert, Associate General Counsel (202/452-3428), Kathleen M. O'Day, Managing Senior Counsel (202/452-3786), Kimberly A. Lynch, Attorney (202/452-3584), Legal Division; or Michael G. Martinson, Assistant Director (202/452-3640), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Earnestine Hill or Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION: The IBA requires the Board to review and revise its rules issued under section 25(a) of the Federal Reserve Act (the Edge Act) at least once every five years to ensure that the purposes of the Edge Act are being served in the light of prevailing economic conditions and banking practices. Edge corporations are international banking and financial vehicles through which U.S. banking organizations offer international banking services and through which they compete with similar foreign-owned institutions in the United States and abroad. The purposes of the Edge Act include enabling U.S. banking organizations to compete effectively with foreign-owned institutions and stimulating competition in the provision of international banking and financing services throughout the United States. The IBA requires the Board to consider these goals consistent with supervisory standards relating to the safety and soundness of U.S. banking organizations.

Regulation K was last fully reviewed and revised in 1985. The changes included authorizing Edge corporations to provide full banking services in the United States to certain qualified business entities; raising the lending limit for Edge corporations; implementing change on control procedures for Edge corporations; liberalizing the investment procedures; and expanding the list of permissible foreign activities. As a result of the current review, the Board has determined that certain of these areas could be further revised. In addition, certain provisions that were not changed in 1985 warrant revision as well. The areas with respect to which the Board proposes revisions are: (1) The expansion of permissible foreign activities of U.S. banking organizations, including securities activities; (2) investments by U.S. banking organizations under the general consent procedures; (3) portfolio investments by U.S. banking organizations; (4) qualified business entities to which Edge corporations may provide full banking services in the United States; (5) case-by-case exemptions from the standard for qualifying foreign banking organizations; and (6) certain technical and clarifying amendments.

Permissible Foreign Activities

Under the Edge Act and the Bank Holding Company Act ("BHC Act"), the Board has authority to permit Edge corporations and bank holding companies to engage indirectly in a wider range of nonbanking activities outside the United States than is permitted domestically. Under the regulatory standard, the Board may authorize any activities that it finds to be "usual in connection with the transaction of banking or other financial operations abroad," provided the activity is consistent with maintaining the safety and soundness of U.S. banking organizations. Section 211.5(d) of Regulation K currently includes a list of activities that the Board has determined to meet this standard and therefore to be permissible for foreign subsidiaries of U.S. banking organizations. The list includes a number of activities not permitted domestically and also by its terms incorporates any activities that are permissible under Regulation Y, 12 CFR part 225. In addition to the list of permissible activities, the Board also considers applications on a case-by-case basis to engage in other activities abroad.

Securities Activities

Current Restrictions on Securities Activities

Since 1979, Regulation K has explicitly authorized foreign subsidiaries of both U.S. banks and bank holding companies to underwrite and deal and equity securities outside the United States. The authority is provided currently by § 211.5(d)(13) of the regulation. Regulation K places no dollar limit on underwriting and dealing in debt

securities.[1] Regulation K currently places three restrictions on underwriting equity securities:

1. A subsidiary may underwrite not more than $2 million of equity securities of one issuer in a given issue.
2. A banking organization using multiple foreign underwriting subsidiaries on a consolidated basis may not at any time have outstanding net commitments to underwrite more than $15 million of equity securities of one issuer.
3. A banking organization also may not underwrite on a consolidated basis more than 20 percent of the voting shares or capital and surplus of any one issuer.

In addition, Regulation K restricts the ownership by U.S. banking organizations of shares of nonbank companies and applies these restrictions to securities held in dealing accounts as well as to securities held as investments. Three restrictions apply to the ownership of nonbank shares, whether held as investments or in dealing accounts:

1. A banking organization may not hold overnight on a consolidated basis more than $15 million of the equity securities of any one issuer.
2. A banking organization may not hold on a consolidated basis more than 20 percent of the voting shares of any one issuer.
3. The total dollar amount of equity securities of companies engaged in impermissible activities may not exceed 100 percent of the capital and surplus of the investor, which may be a bank holding company, Edge corporation, or foreign bank subsidiary, depending upon which entity holds the securities company.

Proposed Revisions

Most of the restrictions on the equity securities activities of U.S. banks and bank holding companies result from the parallel that has developed historically between the limits applied under Regulation K's investment procedures and those applied to underwriting and dealing in equity securities abroad. For example, the $15 million aggregate limit on underwriting and dealing in the equity securities of one issuer derived from the $15 million limit on investments that may be made without prior notice to the Board under the general consent procedures. Similarly, the 20 percent limitation on underwriting or holding the equities of one issuer in a trading account is tied to the limitation on permissible "portfolio" investments of up to 20 percent of the shares of a company.

These limits have imposed constraints on U.S. banking organizations in relation to their foreign competitors. The $15 million limit has been a barrier to extensive foreign equity securities activities by U.S. banking organizations. In addition, the 20 percent limit on underwriting equity securities has effectively prevented U.S. banking organizations from participating in initial public offerings ("IPOs") of a company's shares, which are often not syndicated because of their relatively small size.

To alleviate these constraints the Board is seeking comment on whether it is appropriate to separate most of the limitations applicable to underwriting and dealing in equity securities abroad from the limitations applicable to the investment procedures. Accordingly, the Board proposes the following revisions to Regulation K's authority for equity securities activities.

Underwriting Limit

The Board proposes to raise the underwriting limit, on a consolidated basis, to the lesser of $60 million or 25 percent of the investor's Tier 1 capital.[2] Moreover, the Board proposes to eliminate the per subsidiary limitation of $2 million. The 25 percent limit proposed by the Board is analogous to the single borrower lending limit applicable to national banks for secured and unsecured lending to one borrower. In view of the absolute size of the proposed 25 percent limit for larger banking organizations, the Board proposes to cap the limit at $60 million. These limits would not include any underwriting commitments made by a section 20 company, that is, a subsidiary of the bank holding company that is authorized to underwrite equity securities under section 4(c)(8) of the BHC Act.

Underwriting commitments or securities acquired in the course of an underwriting would not be considered "investments" during the underwriting period and would not be subject to a prior notice requirement for amounts above the general consent limit or the 20 percent limitation of the portfolio investment authority. However, the Board proposes that 30 days after the close of the underwriting period any securities acquired as part of an underwriting would be subject to the dealing limits discussed below. Accordingly, a foreign subsidiary of a U.S. banking organization would be able to underwrite up to 100 percent of an issuer's equity securities as part of an underwriting provided that the subsidiary divests any securities acquired as part of the underwriting to an otherwise permissible level under Regulation K within 30 days of the acquisition of the shares. Normally, the Board would expect a U.S. banking organization to have sufficient prior subunderwriting or purchase commitments to ensure that it was not required to acquire shares in excess of the dealing position limits. Moreover, underwriting commitments for equity securities of nonfinancial companies would be included in the aggregate limit on equity securities of companies.

The Board seeks comment on whether to permit banking organizations on a case-by-case basis to commit to underwrite equity securities in amounts greater than $60 million, where the banking organization would remain strongly capitalized after the excess amount above the $60 million underwriting limit is deducted from parent capital. In addition, where the underwriting subsidiary is a subsidiary of a bank, the Board requests comment on whether the parent bank holding company should be required to guarantee its subsidiary bank against any losses suffered by the subsidiary on underwriting commitments made in excess of the Regulation K limits.

Dealing Limits

The Board proposes that the limit relating to equity securities of any one issuer held in trading or dealing accounts be raised from $15 million to the lesser of $30 million or 10 percent of the investor's Tier 1 capital. The proposed dealing limits are lower than the proposed underwriting limits because underwritings are generally short term and because they rarely fail in their entirety. Equity of the same organization held in investment accounts would be included in determining compliance with the $30 million limit.

The Board proposes to apply the $30 million dealing limit on a net basis, that is, long positions in a security could be offset by contracts to sell the same security. The Board will also consider whether it would be appropriate to permit some allowance for hedging a position in a security through exchange-traded options and futures contracts for the purchase or sale of the same security. The Board, however, does not propose to allow a full offset for such instruments because of the risks associated with using derivative products to hedge a position.

[1] With respect to debt securities activities conducted through a subsidiary of a bank, any underwritign commitments to a company, or securities of a company held in a trading account, when combined with all other loans to the same company, may not exceed the parent bank's single borrower lending limit.

[2] As in the current regulation, the investor could be the bank holding company, an Edge corporation, or member bank, depending on which is the closest parent to the foreign company. See 12 CFR 211.2(j).

Accordingly, the Board requests comment on the methods for allowing some offset in these circumstances and on the appropriate percentage of the value of a security that could be offset by futures or options contracts for the sale of the security.

The Board proposes to retain the other existing limiations applicable to dealing accounts. Under those limitations an investor may hold up to 20 percent of a single issuer's shares in a dealing account. In addition, the aggregate value of equity shares held in a dealing account, after giving any appropriate credit for hedging, will be aggregated with portfolio investments in nonfinancial companies held in the investment account and with any outstanding underwriting commitments for equity securities of nonfinancial companies, and the total value of such shares and commitments may not exceed 100 percent of the investor's capital. The Board believes that retention of the 20 percent restriction would promote appropriate diversification in the dealing account and prevent the banking organization from exercising control over a nonbank company. The 20 percent limit has been a significant constraint in underwriting IPOs but not more generally in conducting dealing activities.

The aggregate limit of 100 percent appears adequate to accommodate equity holdings in nonbank companies and would not appear to be imprudent in the case of investors that are Edge corporation and foreign bank subsidiaries of a bank, because the capital of these investors is already a fraction of the bank's capital. In the case of bank holding companies, however, the ceiling of 100 percent of capital that may be held in equity securities of nonbank companies appears excessive. The Board therefore proposes that the aggreage limit for bank holding companies be reduced to 25 percent of captial, which should be more than adequate to accommodate dealing positions. The Board requests comment on this proposal in particular from any banking organizations as to which an aggregate limit for bank holding companies of 25 percent of capital would significantly constrain current activities.

In addition, to address the concern that certain organizations may not have the expertise to underwrite and deal in equity securities at levels relative to their capital, the Board requests comment on its proposal to require any banking organizations not currently engaged in equity securities underwriting and dealing to file an application with the Board the first time a subsidiary of the organization proposes to engage in the activity abroad. Such an approach would permit supervisory review of internal controls and limits on equity securities underwriting and dealing to ascertain whether they are consistent with the size and condition of the banking organization.

Life Insurance Underwriting

Currently, the § 211.5(d) includes authority for U.S. banking organizations to underwrite credit life, accident, and health insurance abroad. In addition, the Board has approved by order on a case-by-case basis a number of applications for U.S. banking organizations to engage in insurance underwriting activities in a number of countries.[3] The Board has determined that the underwriting of actuarially predictable risks does not present undue risks to the banking organization where prudent investment and other management controls are employed.[4] Thus, the Board proposes to add underwriting of life insurance and similar types of insurance for which the risks are actuarially predictable to the list of permissible activities in Regulation K.

The Board has, however, stated a strong preference that insurance underwriting activities, and other activities which are not traditional banking activities in the United States, be conducted in a separate subsidiary of the holding company in order to protect affiliated banks from adverse effects associated with the conduct of those activities.[5] The Board has generally approved applications to engage in the underwriting of life and similar insurance risks only through subsidiaries of bank holding companies.

Thus, the Board proposes that the general authority to engage in life insurance underwriting be limited to subsidiaries of bank holding companies. Morever, the Board proposes that bank holding companies should be required to deduct from their capital investments in and unsecured extensions of credit to such companies. A banking organization may apply to the Board for specific approval to conduct insurance activities through a subsidiary of the bank. In acting on such applications, the Board may require such conditions or restrictions as it considers necessary to prevent adverse effects and promote the safety and soundness of the parent bank.

Futures Commission Merchant Activities

Section 211.5(d)(15) of Regulation K, by incorporating Regulation Y, authorizes a banking organization to act as a futures commission merchant abroad with respect to certain financial instruments. In September 1982, however, the Board suspended the operation of the general consent procedures of Regulation K with respect to FCM activities conducted on exchanges outside of the United States. This action was taken so that the Board would have the opportunity to examine the rules of the exchanges on which U.S. banking organizations would be conducting FCM activities. The Board was concerned with the risk associated with exchanges on which members mutually guarantee each other's liabilities either directly or through mandatory assessments by a guaranty fund, and, in particular, with exchanges that require the parent corporation of the investor, as well as the investor itself, to provide a guarantee.

The Board has had the opportunity to examine the rules of various exchanges abroad since 1982 and has approved FCM activities on numerous exchanges.[6] Accordingly, the Board proposes to lift the suspension of general consent authority for FCM activities on exchanges that the Board has previously approved.

FCM activities on exchanges that the Board has not examined will continue to be subject to specific approval procedures. In addition, potential risks to Edge corporation and foreign bank subsidiaries and their U.S. bank parents

[3] Specifically, the Board has approved: (1) Underwriting life insurance in the United Kingdom, Federal Republic of Germany and Australia; (2) underwriting credit insurance not directly related to extensions of credit by affiliates, savings completion insurance, and home loan life insurance and endowment life insurance related to mortgage lending activities of affiliates, in Belgium and Luxembourg; (3) underwriting pension fund-related insurance and disability insurance in connection with Chilean mandated worker pensions; (4) underwriting retirement-related life insurance in Argentina; and (5) underwriting health insurance in the United Kingdom.

[4] The Board denied an application by a U.S. bank to engage in property and casualty insurance underwriting because the risks were not actuarially predictable. See Citibank Overseas Investment Corporation, 71 Federal Reserve Bulletin 808 (1985).

[5] See Letter from Chairman Volcker, dated August 23, 1985.

[6] The Board, under Regulation K, has approved FCM activities for certain bank holding companies on the London Gold Futures Market, the London International Financial Futures Exchange, the Singapore International Monetary Exchange, the Sydney Futures Exchange, the Tokyo Stock Exchange, the Marche a Terme d'Instruments Financiers, the Hong Kong Futures Exchange, the Bolsa Mercantile & de Futuras Exchange, the Bolsa de Mercadorias de Sao Paulo, the Bolsa Brasileira de Futuros, the Amsterdam Financial Futures Market, the Tokyo International Financial Futures Exchange, and the DTB Deutsche Terminborse.

presented by operations on mutual exchanges continue to be a source of concern, as do new untested nonfinancial instruments. Thus, the Board proposes to add FCM activities on exchanges that the Board has previously approved to the list of permissible activities in § 211.5(d), subject to the requirement that any activities by foreign subsidiaries of banks on mutual exchanges or any activities involving nonfinancial instruments or their derivatives continue to require the Board's prior approval.

Currency and Interest Rate Swaps

Banks in the United States may act as principals or agents in interest rate and foreign currency swap transactions and related swap derivative products. Although currency and interest rate swaps are not identified as a general banking power under the National Bank Act, the Comptroller of the Currency, under discretionary authority, has permitted such activities as incidental to banking powers. State member banks also engage in the activity as a power incidental to their state charter powers. Subsidiaries of U.S. banking organizations that are engaged in commercial or investment banking activities also engage in swap transactions as both principal and agent, again as incidental to their banking powers.

A significant number of foreign bank subsidiaries of U.S. banks have been engaging in swap transactions, acting as originator and principal, under incidental powers. The Board proposes to clarify the legal authority for a U.S. banking organization to engage in swap transactions through foreign subsidiaries by adding currency and interest rate swaps to the list of permissible activities in § 211.5(d) so that they may be conducted independently or any other banking activity.

General Consent Authority of the Investment Procedures

Categories of Investments

Regulation K generally provides for three types of investments abroad:

(1) A controlling interest in a *subsidiary* company that engages almost exclusively in permissible financial activities;

(2) A *joint venture* investment in 20 to 50 percent of the voting shares of a company over which actual control is not exercised by the investor, which may derive up to 10 percent of its business from impermissible activities; and

(3) A passive non-controlling *portfolio investment* in up to 20 percent of the voting shares in any company, regardless of the nature of its business.[7]

Investment Procedures

Under § 211.5(c) of Regulation K, U.S. banking organizations may make investment in these types of companies under three procedures:

(1) An investment that qualifies under the *general consent* procedures may be made without prior review or approval, although after-the-fact reports on all investments must be made to Reserve Banks. Currently, to qualify under the general consent authority an individual investment may not exceed the lesser of $15 million or 5 percent of the capital and surplus of the immediate investor, which is, the closest parent company and may be a bank holding company, a bank, or an Edge corporation engaged in banking. As discussed below, an "investment" Edge corporation may invest in the lesser of $15 million or 25 percent of its capital and surplus.

(2) An investment in a permissible activity listed in section 211.5(d) that exceeds the limits under the general consent authority may be made after giving 45 days *prior notification* to the Board. The Board may waive that period or determine that the investment requires action under specific consent procedures.

(3) Any other investment, such as an investment in a subsidiary company engaged in an activity that is not of the list of permissible activities in section 211.5(d), requires the *specific consent* of the Board.

The general consent procedures were liberalized in 1985 when the maximum dollar amount for investments without prior notice to the Board was increased from $2 millon to $15 million. The current general consent procedures currently permit individual investments in an amount equal to the lesser of $15 million or 5 percent of the investor's capital, except where the investor is an "investment" Edge corporation [8] in which case the alternative limit is 25 percent, instead of 5 percent, of capital.[9]

The investment procedures in Regulation K do not appear to pose a significant regulatory burden on U.S. banking organizations. Moreover, there does not appear to have been any diminution in the profile of risks associated with the international business of large U.S. banks during the past five years that would warrant a significant modification of supervisory procedures. In order to provide some room for additional investments under the general consent procedures for U.S. banking organizations that are active internationally, the Board proposes to raise the dollar limits applicable to the general consent authority from $15 million to $25 million. The Board believes this increase can be justified on the basis of the increases in Tier 1 capital since the last revision to Regulation K and of projected comparable increases in Tier 1 capital over the next five years. The general consent procedures would, however, be available only to banking organizations that meet minimum capital adequacy guidelines.

The growth in capital of multinational U.S. banking organizations over the past five years was slightly less than one-third. With a projection for similar growth over the next five years, the dollar limit would be increased to $25 million. Further, the Board proposes to amend the percentage limitation to reflect the investor's Tier 1 capital level rather than the current standard of capital and surplus.

Under the proposed standard, bank holding companies, banks, and Edge corporations engaged in banking would be able to invest the lesser of $25 million or 5 percent of their Tier 1 capital in a proposed investment, while investment Edge corporations would be able to invest the lesser of $25 million or 25 percent of their Tier 1 capital. The proposed standards would give greater scope for investments abroad without prior Board review for the largest U.S. banking organizations that are most active internationally. Some of these organizations have indicated that an increase in the dollar amount limitation for the general consent procedures might enhance their competitiveness abroad as compared with foreign institutions not subject to similar restrictions on investments. At the same time, the proposed standards would permit prior Board review of a significant portion of the foreign investments of U.S. banking organizations to ensure that expansion abroad for particular banking organizations is consistent with concerns for the safety and soundness of affiliated banks.

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[7] Section 211.5(f) of Regulation K provides special rules for debt-for-equity investments in heavily indebted countries.

[8] An Edge corporation that accepts deposits in the United States is considered to be engaged in banking (a "banking Edge corporation"). See 12 CFR 211.2(d). An Edge corporation not engaged in banking itself is generally a holding company for foreign investments (an "investment Edge corporation"). Because investment Edge corporations are not themselves U.S. deposit-taking institutions, the investment limit based on the investment Edge corporation's capital has traditionally been higher.

[9] Section 211.5(c) also authorizes additional investments of up to 10 percent of the investor's capital and surplus per year. This authority may be carried forward and accumulated for up to five years. Again, the investor is considered to be either an Edge corporation, member bank, or bank holding company, whichever is the closest parent to the foreign company in the line of ownership.

Portfolio Investments

Section 211.5(b) of Regulation K permits a U.S. banking organization to make a passive portfolio investment in a company abroad without regard to the nature of its non-U.S. activities. Investments in less than 20 percent of the voting shares of a company are permitted under the portfolio investment provision of Regulation K so long as the investor does not control the company.

This authority to make portfolio investments was originally granted in large part to make U.S. banking organizations more competitive with foreign organizations in providing venture capital financing to foreign companies, although the authority has not been limited to those circumstances. The ability of a U.S. banking organization to hold up to 20 percent of the voting shares of any kind of company has provided scope for such investments. In the past few years, however, U.S. banking organizations have sought to avoid the limitation on portfolio investments by expanding the scope of their interests in nonbanking companies through non-voting equity investments in addition to voting equity investments explicitly permitted under Regulation K in 19.99 percent of the shares of such companies. Although nonvoting shares are nominainslly preferred shares, they often have the same financial characteristics as common shares. In addition, the level of an investor's involvement in a company can be expected to increase with the level of the organization's ownership interest, and corresponding profit participation, in a company. The risks associated with these larger investments, along with financing commitments to these companies, require clarification in Regulation K of the acceptable limits of such investments.

Large equity investments, whether voting or nonvoting, tend to increase the financial and managerial responsibility of an investor in a company. Moreover, the potential for large returns on an equity investment may induce an investor to lend to a company on a less than arm's-length basis. The Board has taken the position that a substantial equity interest in a company—even if in nonvoting form—raises the potential for a control relationship to arise.

In the domestic context under Regulation Y, the Board has adopted a Policy Statement on Nonvoting Equity Investments by Bank Holding Companies, 12 CFR 225.143, in response to the development and increasingly pervasive use of nonvoting equity instruments. The policy statement imposes a limit for noncontrolling investments of 25 percent of a company's total equity. The 25 percent ceiling was implemented both to limit an investor's ability to control a company through nonvoting shares and to impose prudential constraints upon the acquisition of nonvoting instruments.

The lack of a similar constraint on larger nonvoting equity investments under Regulation K has presented some problems. U.S. banking organizations have acquired total equity ownership interests of close to 50 percent in nonfinancial companies abroad by combining nonvoting equity interests with ownership of 19.9 percent of the voting shares. Such acquisitions, in addition to being structured to avoid the limits of the portfolio investment provision, have the effect of increasing the exposure of U.S. banking organizations to nonfinancial risk, especially where large equity holdings are combined with extensive financing of the company or partnership in which the investment is made. Recently, U.S. banking organizations have used their portfolio investment authority to leverage the potential return from leverated buy-outs and real estate lending, thereby resulting in greater risk-taking. In some cases, it is apparent that the credit would not have been extended without the prospect of a large return on the equity holdings, raising the issue of whether the ability to hold large equity interests may impair impartial credit judgments. To address these concerns, the Board proposes to define appropriate limits to the scope of the portfolio investment authority.

Venture Capital and Other Small Investments

The proposed revisions to Republican K attempt to recognize that the portfolio investment provisions of Regulation K were originally promulgated to facilitate financing for start-up ventures. Venture capital financing is generally for smaller companies where the total capital and debt needs of the company are not large in absolute terms. Because the company is usually in a start-up position, traditional sources of bank credit may not be available. To accommodate such situations, the Board proposes to permit banking organizations to make investments in up to 40 percent of the equity of a company, of which up to 20 percent may be voting shares, as long as the aggregate amount of equity investments in and loans to the company does not exceed $25 million, which is the proposed general consent amount. This proposed revision would apply to both venture capital financing and any other type of small investment. Because the total exposure, equity and credit, to the company is limited, this type of investment should not cause the banking organization to assume significant risks at the prospect of earning a large equity return. The Board also requests comments on what additional requirements may be necessary to assure that an investor does not exercise control over a company in which it holds an equity interest of 40 percent.

Larger Portfolio Investments

Where investments and loans exceed $25 million, the Board proposes to limit the total amount of equity that may be held as a portfolio investment in a nonfinancial company to no more than 24.9 percent of the company's equity. This limit would both reduce the potential for a control relationship to exist and place prudential constraints upon large equity stakes in nonfinancial companies. The limit would also be consistent with the standards applicable domestically and would establish a standard that a U.S. banking organization may easily follow. Where the equity holding is limited to 24.9 percent, loans or other extensions of credit to a company—except subordinated debt—would not generally be restricted, other than by normal prudential considerations, or aggregated with the investment in the company for purposes of complying with the general consent amount limitations.

In some situations, however, banking organizations have provided financing to companies in which they hold equity interests in forms that appear to have an equity component. For example, credit may be provided where the lending banking organization also receives warrants or debt obligations convertible into stock of the company or where the lender receives a percentage of the profits of the company. In addition, subordinated debt has sometimes been provided to companies in which the banking organization also holds equity shares. In some circumstances, the subordinated debt served, and was intended to serve, as equity. These types of credit would appear to raise the same issues as the direct holding of equity. Consequently, the Board requests specific comment on its proposal to include such forms of financing in the definitions of "equity" and "investment," for purposes of determining compliance with the equity percentage limitation and the general consent investment amount under Regulation K, and on how such forms of financing should be defined. If by including such financing as an

investment an investor were to exceed the general consent dollar amount limitation, the investor would merely be required to file a notice with the Board. The Board would consider establishing a procedure to review subordinated debt or profit participation loans where the investor also holds equity shares of the company to determine whether in the circumstances of a particular case they serve as the equivalent of equity, and requests comment on the form of and standards for such a procedure.

Aggregate Portfolio Investments Limits

Section 211.5(b) of Regulation K currently imposes an aggregate limit on portfolio investments. A bank holding company, bank, or Edge corporation investor may not invest more than the equivalent of 100 percent of its capital and surplus in equity securities of nonbanking companies. This limit includes equity securities held in dealing accounts. As discussed in the context of securities activities, the Board requests comment on its proposal to lower the aggregate limit on portfolio and certain other equity holdings to 25 percent of the investor's capital and surplus where the investor is a bank holding company. This lower limit appears appropriate because of the adverse effect that fluctuation in the value of a relatively large equity portfolio could have on the capital of the bank holding company. A comparable reduction is not proposed for other investors because their total capital is already a fraction of the parent organization's consolidated capital.

Qualified Business Entities for Which Edge Corporations May Provide Full Banking Services in the United States

The Edge Act limits lending and deposit-taking by Edge corporations in the United States to transactions related to international or foreign business. The Board has viewed this mandate as requiring that all banking transactions, and particularly those with U.S. residents, have an international character or purpose. Thus, Edge corporations are generally required to verify that every deposit or credit transaction it conducts is related to an international transaction.

As part of the 1985 revision of Regulation K, the Board adopted an exception to this general rule if the company with which the transaction is done is a so-called qualified business entity ("QBE"), a company that by charter or license is engaged exclusively in activities of an international character, such as a foreign sales corporation or an export trading company. Because QBEs are restricted to conducting predominately international activities, Edge corporations may provide full banking services to such entities and are relieved of the administrative burden of documenting the international character of each transaction with a QBE. As part of this five-year review, the Board seeks public comment on whether there are other organizations that could be added to the current list of QBEs for which Edge corporations could appropriately act as full service banks in the United States.

Qualifying Foreign Banking Organizations

Background

The BHC Act contains exemptions from its nonbanking prohibitions for certain activities of foreign banks. These exemptions—sections 2(h)(2) and 4(c)(9) of the BHC Act—were intended to recognize that foreign banks are generally permitted by the laws of their home countries to engage in a wider range of nonbanking activities than U.S. banks and that many foreign banks are linked through stock ownership to foreign nonbanking companies that have operations in the United States. The exemptions help to avoid extraterritorial application of U.S. prohibitions against the combination of banking and nonbanking activities under a bank holding company. At the same time, the exemptions were not intended to permit foreign commercial and industrial firms to conduct a commercial banking business in the United States.

Section 211.23 of Regulation K implements these statutory provisions by making the exemptions available only to qualifying foreign banking organizations ("QFBOs)." In order to be deemed a QFBO, the foreign banking organization generally must derive more than half of its non-U.S. business from banking outside of the United States and conduct more than half of its banking business outside the United States.[10]

[10] More specifically, the test requires that the foreign banking organization meet at least two of the following requirements:

1. Foreign banking assets exceed total worldwide nonbanking assets,

2. Revenues from foreign banking business exceed revenues from worldwide nonbanking business, or

3. Net income from foreign banking business exceeds net income from worldwide nonbanking business;

and at least two of the following requirements:

1. Foreign banking assets exceed U.S. banking assets,

2. Revenues from foreign banking business exceed revenues from U.S. banking business, or

3. Net income from foreign banking business exceeds net income from U.S. banking business.

See 12 CFR 211.23(b).

Banking business is defined to include any activity listed as permissible in Regulation K, if such activities are conducted by the foreign bank of a subsidiary of the foreign bank.

Nonqualifying Organizations

The overwhelming majority of foreign banks have always met and continue to meet the QFBO test. There have been, however, an increasing number of acquisitions and mergers occurring outside the United States among foreign companies engaged in financial services, which have resulted in affiliations between banks and nonbank financial companies, particularly life insurance companies. Such corporate combinations may lead to situations where a previously qualifying foreign bank could now be part of a larger financial services company that may not satisfy the QFBO standard. A nonqualifying foreign banking organization is faced with the option of either conforming its worldwide activities to those permitted for a U.S. bank holding company or terminating its U.S. banking business, unless the Board grants a specific exemption.

As was discussed above, the proposed revision to § 211.5(d) would add underwriting life and related insurance to the list of activities that are permissible for a U.S. banking organization abroad. Under § 211.23(c), any activity on the list of permissible activities for U.S. banks abroad automatically becomes a banking activity for purposes of the QFBO standard as long as the activity is conducted in the bank ownership chain. Adding life insurance to the list of activities generally will aid foreign banks that acquire foreign insurance companies in continuing to meet the QFBO standard.

This change, however, would not assist those foreign banks that, because they have been acquired by larger foreign insurance companies, no longer meet the QFBO standard. Because the life insurance activities are not conducted through the bank ownership chain, but by the parent company, adding life insurance to the list of permissible activities would not assist these organizations in maintaining compliance with the QFBO standard.

Section 211.23(g) of Regulation K provides that an organization that does not meet the standard may apply for a specific determination of eligibility. The Board has in the past generally granted exemptions only in limited circumstances, chiefly because of concerns for safety and soundness and

competitive equality with U.S. banking organizations.

There may, however, be undue hardship in applying that standard strictly to foreign financial services companies that are engaged mostly in activities permissible to U.S. bank holding companies abroad. Thus, the Board requests comment on a proposal to exercise its discretion under § 211.23(g) on a case-by-case basis to prevent hardship to foreign companies in these circumstances. In considering whether a special exemption should be granted, the Board would give due consideration to whether the non-qualifying owner of a foreign bank engages predominately in activities permissible to U.S. bank holding companies abroad. This standard would be one factor the Board would consider in reviewing requests for specific determinations of eligibility by foreign companies. A specific determination of eligibility for a life insurance company that owns a foreign bank with U.S. operations would not, absent other factors, appear to be substantially at variance with the purposes of the BHC Act, as long as the life insurance company does no or only *de minimis* insurance business in the United States. Consequently, the Board could grant determinations of eligibility to foreign insurance companies, if such companies engage substantially in activities that U.S. banking organizations may conduct outside the United States, without creating substantial inconsistencies with the purposes of the BHC Act.

There are certain situations, however, in which granting qualifying status would be at variance with the purposes of the BHC Act. The Board proposes to add language to § 211.23(e) of Regulation K stating that specific determinations of eligibility would generally not be granted to a foreign industrial or commercial company that owns a foreign bank or to a company that derives less of its commercial banking business from outside the United States than it derives from inside the United States. In either case, eligibility would provide potential competitive advantages to those companies as compared with U.S. banking organizations and could have adverse consequences for the safety and soundness of the U.S. banking operations. The proposed language is intended to clarify that in this context a commercial banking business means a banking business conducted through a regulated foreign bank.

Interim Authority Until a Specific Determination Is Made

Another problem arises when a foreign bank is acquired by a foreign company. When an organization does not qualify for QFBO status, its worldwide activities and investments must conform to those of a U.S. bank holding company. In the time period prior to any action that the Board might take on a request by a foreign organization for a specific determination of eligibility under § 211.23(g), the foreign organization must apply to the Board for permission to make even purely foreign acquisitions. To address this situation, the Board requests comment on a proposal to modify the regulation to permit a nonqualifying company to continue to conduct activities and make acquisitions abroad without prior Board review until such time as the Board acts on a request for exemption from the QFBO test. The proposed language makes it clear that the organization must abide by the Board's final determination regarding the organization's status, including any requirements to cease activities or divest investments. The Board believes that this proposed interim measure strikes an appropriate balance between the Board's interest in compliance by foreign banks with applicable statutory and regulatory standards and the Board's desire to avoid unnecessary impact on the non-U.S. operations of foreign banking organizations.

Technical and Clarifying Amendments

Technical Modifications to Provisions Governing Debt-for-Equity Conversions

Section 211.5(f) of Regulation K permits debt-for-equity investments to be made under special consent procedures that require no prior notice to the Board unless the size of the investment exceeds the greater of $15 million or one percent of the bank holding company's equity capital. Consistent with the new risk-based standards, the Board proposes to replace the equity capital standard with the Tier 1 capital standard.

In addition, the provisions of § 211.5(f) related to debt-for-equity conversions were enacted at a time when debt-for-equity swap programs were commonly administered by heavily indebted foreign governments. Such swaps are now more frequently conducted outside the scope of formal programs. In light of this change in the market, the Board proposes two technical amendments to § 211.5(f) with respect to the following: (1) Modifying the reference to the procedures for swap transactions to make clear that such procedures need not be pursuant to a formal government program; and (2) adjusting the divestiture requirement—that investments be divested within two years after full repatriation of the investment is permitted by the debtor country—to take account of the fact that in the absence of a formal program there may not be any restrictions on repatriation, in which case divestiture would be required within ten years of acquisition, subject to an extension of time at the discretion of the Board for an additional five years.

Establishing Closer Supervision Over Edge Corporations

As a result of recent enforcement problems involving certain Edge corporations, the Board proposes to amend § 211.4 of Regulation K to clarify that the Board's broad supervisory authority over Edge corporations includes the authority to call an emergency meeting of the shareholders of an Edge corporation to address pressing problems of the Edge corporation. This proposed measure provides the Board with an alternative supervisory tool to a more time-consuming enforcement proceeding.

Conforming the Capital Requirements for Edge Corporations to the Risk-Based Guidelines

Currently § 211.6(c) requires Edge corporations engaged in banking to be capitalized at an amount not less than seven percent of the Edge corporation's risk assets. Risk assets are defined as total assets less cash, amounts due from domestic banking organizations, U.S. government securities, and federal funds sold. The Board proposes to amend the capital requirements to conform to the Board's new risk-based capital guidelines. However, because of the International character and limited diversification of the portfolios of Edge corporations, the Board proposes to require a ten percent minimum ratio for 1992 under the guidelines, rather than the eight percent target applied to state member banks and bank holding companies.

Conforming the Exemptions for Qualifying Foreign Banking Organizations ("QFBOs") to the Current SIC Standards

Under § 211.23(f)(5)(iii) of Regulation K, QFBOs are allowed to engage in certain nonfinancial activities in the United States provided that, among other things, the U.S. activities are in the same line of business as the activities of the foreign company abroad. Regulation K looks to the Standard Industrial

Classification (the "SIC") to determine whether activities are in the same line of business. The SIC was revised in 1987. The Board proposes to revise the references to the SIC in § 211.23(f)(5)(iii) to reflect the new SIC categories. Other technical modifications are made to reflect revisions to section 2(h) of the BHC Act (12 U.S.C. 1841(h)) in 1987.

Clarifying the Definition of "Subsidiary"

Regulation K is currently silent as to the significance of partnership interests. Although § 211.2(i) defines "investment" to include partnership interests, it does not define what type of investment—a subsidiary, joint venture, or portfolio investment—a partnership interest constitutes.

Under Regulation Y, "company" is defined to include general and limited partnerships. 12 CFR 225.2(d)(1). The result is that when a bank holding company or its subsidiary is a general partner in a partnership, the partnership is considered a subsidiary of the bank holding company because it is deemed to control the partnership. Thus, the activities of the partnership must be limited to those that are permissible for a bank holding company. The rationale behind this policy is typically that under applicable law general partners have full management powers and full personal liability for partnership debt and commitments.

Similarly, the Board has interpreted a general partnership interest to be equivalent to a subsidiary for purposes of Regulation K. Thus, the partnership's activities are confined to those permissible for a U.S. banking organization under Regulation K. Accordingly, the Board proposes to clarify the regulation by specifying that any company of which an investor or its affiliate is a general partner will be considered a subsidiary of the investor.

The definition of subsidiary would also be amended to clarify that an investor will be deemed to control an organization if the investor and its affiliates own or control more than half of the equity of the organization.

These clarifications of the definition of subsidiary are not exhaustive. Other facts and circumstances may also give rise to the conclusion that an investor controls an organization, thereby causing the organization to be deemed a subsidiary.

Clarifying the Meaning of "Governmental Entity" with Respect to Foreign Branch Investment Powers

A foreign branch of a U.S. bank may, under § 211.3 of Regulation K, (1) invest in the securities of "governmental entities" and (2) underwrite, distribute, buy, and sell obligations of "an agency or instrumentality of the national government", subject to certain amount limitations. The issue of what constituties the security of a governmental entity or the obligation of an instrumentality of a national government has been raised in connection with several proposed investments abroad. In order to avoid such questions in the future the Board proposes to amend § 211.3(b) to clarify that governmental ownership alone does not made an entity a governmental entity or an instrumentality of the national government; rather, the test is whether there is a government guarantee or whether the taxing authority of full faith and credit of the government is available to support the obligations of the entity.

Conforming the Regulations Governing Export Trading Companies to the New Standards Mandated by Congress

Under the Export Trading Company Act Amendments of 1988, enacted as part of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–148) ("Trade Act"), certain changes in the Board's regulation of bank affiliated export trading companies ("ETC's") are required. ETCs are companies in which bank holding companies may invest for the purpose of promoting U.S. exports. Specifically, consistent with the purposes of the Trade Act, the Board proposes to:

(1) Amend the revenues test, which demonstrates that the business of the ETC is largely export-oriented, to neutralize the effect of third party transactions;

(2) Provide companies with a longer start-up period before they must satisfy the revenues test; and

(3) Clarify the misconception that certain delegation rules regarding leverage and inventory standards constitute maximum limits.

These standards have been applied administratively since the Trade Act was adopted. As part of the current revision, the Board proposes to incorporate these standards into subpart C of Regulation K and to amend the Board's delegation rules at 12 CFR 265.2 to eliminate the references to leverage and inventory limits.

The Board welcomes comment on all of these proposals including any changes not noted above but that are set forth in the attached draft regulation.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), the Board of Governors of the Federal Reserve System certifies that this notice of proposed rulemaking, if adopted as a final rule, will not have a significant economic impact on a substantial number of small entities that would be subject to the regulation.

List of Subjects

12 CFR Part 211

Accounting for fees on international loans, Allocated transfer risk reserve, Export trading companies, Exports, Federal Reserve System, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements, Reporting and disclosure of international assets.

12 CFR Part 265

Authority delegations (Government agencies), Federal Reserve System.

For the reasons set forth above, the Board proposes to amend 12 CFR parts 211 and 265 as follows:

PART 211—INTERNATIONAL BANKING OPERATIONS

1. The authority citation for part 211 is revised to read as follows:

Authority: Federal Reserve Act (12 U.S.C. 221 *et seq.*); Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*); the International Banking Act of 1978 (Pub. L. 95–369; 92 Stat. 607; 12 U.S.C. 3101 *et seq*); the Bank Export Services Act (Title II, Pub. L. 97–290, 96 Stat. 1235); the International Lending Supervision Act (Title IX, Pub. L. 98–181, 97 Stat. 1153, 12 U.S.C. 3901 *et seq.*); and the Export Trading Company Act Amendments of 1988 (Title III, Pub. L. 100–418, 102 Stat. 1384 (1988)).

2. Subpart A of part 211 is revised to read as follows:

Subpart A—International Operations of United States Banking Organizations

Sec.

Subpart A—International Operations of United States Banking Organizations

§ 211.1 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued by the Board of Governors of the Federal Reserve System ("Board") under the authority of the Federal Reserve Act ("FRA") (12 U.S.C. 221 *et seq.*); the Banking Holding Company Act of 1956 ("BHC Act") (12 U.S.C. 1841 *et seq.*); and the International Banking Act of 1978

("IBA") (92 Stat. 607; 12 U.S.C. 3101 *et seq.*). Requirements for the collection of information contained in this regulation have been approved by the Office of Management and Budget under the provision of 44 U.S.C. 3501 *et seq.* and have been assigned OMB Nos. 7100–0107; 7100–0109; 7100–0110; 7100–0069; 7100–0086; and 7100–0073.

(b) *Purpose.* This subpart sets out rules governing the international and foreign activities of U.S. banking organizations, including procedures for establishing foreign branches and Edge corporations to engage in international banking and for investments in foreign organizations.

(c) *Scope.* This subpart applies to corporations organized under section 25(a) of the FRA (12 U.S.C. 611–631), "Edge corporations"; to corporations having an agreement or undertaking with the Board under section 25 of the FRA (12 U.S.C. 601–604a), "Agreement corporations"; to member banks with respect to their foreign branches and investments in foreign banks under section 25 of the FRA (12 U.S.C. 601–604a);[1] and to bank holding companies with respect to the exemption from the nonbanking prohibitions of the BHC Act afforded by section 4(c)(13) of the BHC Act (12 U.S.C. 1843(c)(13)).

§ 211.2 Definitions.

Unless otherwise specified, for the purposes of this subpart:

(a) An *affiliate* of an organization means:

(1) Any entity of which the organization is a direct or indirect subsidiary; or

(2) Any direct or indirect subsidiary of the organization or such entity.

(b) *Capital and surplus* means paid-in and unimpaired capital and surplus, and includes undivided profits but does not include the proceeds of capital notes or debentures.

(c) *Directly or indirectly* when used in reference to activities or investments of an organization means activities or investments of the organization or of any subsidiary of the organization.

(d) An Edge corporation is *engaged in banking* if it is ordinarily engaged in the business of accepting deposits in the United States from nonaffiliated persons.

(e) *Engaged in business* or *engaged in activities* in the United States means maintaining and operating an office (other than a representative office) or subsidiary in the United States.

(f) *Equity* means an ownership interest in an organization, whether through voting or nonvoting shares, general or limited partnership interests, or any other form of interest conferring ownership rights, including warrants, debt or any other interests that are convertible into shares or other ownership rights in the organization, and loans that provide rights to participate in the profits of an organization and subordinated debt of an organization that is held by an investor or its affiliates when shares of the organization are also held by the investor or its affiliates, unless the investor receives a determination that such loans or subordinated debt should not be considered equity in the circumstances of the particular investment.

(g) *Foreign* or *foreign country* refers to one or more foreign nations, and includes the overseas territories, dependencies, and insular possessions of those nations and of the United States, and the Commonwealth of Puerto Rico.

(h) *Foreign bank* means an organization that is organized under the laws of a foreign country; engages in the business of banking; is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or principal banking operations; receives deposits to a substantial extent in the regular course of its business; and has the power to accept demand deposits.

(i) *Foreign branch* means an office of an organization (other than a representative office) that is located outside the country under the laws of the organization is established, at which a banking or financing business is conducted.

(j) *Investment* means the ownership or control of shares (including partnership interests and other interests evidencing ownership), binding commitments to acquire shares, contributions to the capital and surplus of an organization, and the holding of an organization's subordinated debt or of other loans that provide rights to participate in the profits of the organization when shares or other interests in the organization are also held by the investor or the investor's affiliate.

(k) *Investor* means an Edge corporation, Agreement corporation, bank holding company, or member bank.

(l) *Joint venture* means an organization that has 20 percent or more of its voting share held directly or indirectly by the investor or by an affiliate of the investor, but which is not a subsidiary of the investor.

(m) *Organization* means a corporation, government, partnership, association, or any other entity.

(n) *Person* means an individual or an organization.

(o) *Portfolio investment* means an investment in an organization:

(1) Other than a subsidiary or joint venture; and

(2 In the case of investments in companies that do not meet the requirements for eligible investments in a subsidiary or a joint venture, the investor and its affiliates hold less than 25 percent of the total equity of the organization.

(p) *Representative office* means an office that engages solely in representational and administrative functions such as solicitation of new business for or liaison between the organization's head office and customers in the United States, and does not have authority to make business decisions for the account of the organization represented.

(q) *Subsidiary* means an organization more than 50 percent of the voting shares of which is held directly or indirectly by the investors, or which is otherwise controlled or capable of being controlled by the investor or an affiliate of the investor. Among other circumstances, an investor is considered to control an organization if the investor or an affiliate is a general partner of the organization or if the investor and its affiliates directly or indirectly own or control more than 50 percent of the entity of the organization.

(r) *Tier 1 capital* means common stockholders equity and such other instruments as qualify as Tier 1 capital under guidelines adopted by the Board from time to time for risk-based capital (12 CFR part 225, appendixes A and B).

§ 211.3 Foreign branches of U.S. banking organizations.

(a) *Establishment of foreign branches*—(1) *Right to establish branches.* Foreign branches may be established by any member bank having capital and surplus of $1,000,000 or more, an Edge corporation, an agreement corporation, or a subsidiary held pursuant to this subpart. Unless otherwise provided in this section, the establishment of a foreign branch requires the specific prior approval of the Board.

(2) *Branching within a foreign country.* Unless the organization has been notified otherwise, no prior Board approval is required for an organization to establish additional branches in any

[1] Section 25 of the FRA, which refers to national banking associations, also applies to State member banks of the Federal Reserve System by virtue of section 9 of the FRA (12 U.S.C. 321).

foreign country where it operates one or more branches.[2]

(3) *Branching into additional foreign countries.* After giving the Board 45 days' prior written notice, an organization that operates branches in two or more foreign counties may establish a branch in an additional foreign country, unless notified otherwise by the Board.[3]

(4) *Expiration of branching authority.* Authority to establish branches through prior approval or prior notice shall expire one year from the earliest date on which the authority could have been exercised, unless the Board extends the period.

(5) *Reporting.* Any organization that opens, closes, or relocates a branch shall report such change in a manner prescribed by the Board.

(b) *Further powers of foreign branches of member banks.* In addition to its general banking powers, and to the extent consistent with its charter, a foreign branch of a member bank may engage in the following activities so far as usual in connection with the business of banking in the country where it transacts business:

(1) *Guarantees.* Guarantee debts, or otherwise agree to make payments on the occurrence of readily ascertainable events,[4] if the guarantee or agreement specifies a maximum monetary liability; it may not have liabilities that the member bank is fully secured, it may not have liabilities outstanding for any person on account of such guarantees or agreements which when aggregated with other unsecured obligations of the same person exceed the limit contained in paragraph (a)(1) of section 5200 of the Revised Statutes (12 U.S.C. 84) for loans and extensions of credit;

(2) *Investments.* Invest in:

(i) The securities of the central bank, clearing houses, governmental entities,[5] and government-sponsored development banks of the country in which the foreign branch is located;

(ii) Other debt securities eligible to meet local reserve or similar requirement; and

(iii) Shares of automated electronic payments networks, professional societies, schools, and the like necessary to the business of the branch.

However, the total investments of the bank's branches in that country under this paragraph (exclusive of securities held as required by the law of that country or as authorized under section 5136 of the Revised Statutes (12 U.S.C. 24, Seventh)) may not exceed one percent of the total deposits of the bank's branches in that country on the preceding year-end call report date (or on the date of acquisition of the branch in the case of a branch that has not so reported);

(3) *Government obligations.* Underwrite, distribute, buy, and sell obligations of:

(i) The national government of the country in which the branch is located;

(ii) An agency or instrumentality [6] of the national government; and

(iii) A municipality or other local or regional governmental entity of the country.

However, no member bank may hold, or be under commitment with respect to, such obligations for its own account in an aggregate amount exceeding 10 percent of its capital and surplus;

(4) *Credit extensions to bank's officers.* Extend credit to an officer of the bank residing in the country in which the foreign branch is located to finance the acquisition or construction of living quarters to be used as the officer's residence abroad, provided the credit extension is reported promptly to the branch's home office and any extension of credit exceeding $100,000 (or the equivalent in local currency) is reported also to the bank's board of directors;

(5) *Real estate loans.* Take liens or other encumbrances on foreign real estate in connection with its extensions of credit, whether or not of first priority and whether or not the real estate has been improved;

(6) *Insurance.* Act as insurance agent or broker;

(7) *Employee benefits program.* Pay to an employee of the branch, as part of an employee benefits program, a greater rate of interest than that paid to other depositors of the branch;

(8) *Repurchase agreements.* Engage in repurchase agreements on securities and commodities that are the functional equivalents of extensions of credit;

(9) *Investment in subsidiaries.* With the Board's prior approval, establish or invest in a wholly-owned subsidiary to engage solely in activities in which the member bank is permitted to engage or activities that are incidental to the activities of the foreign branch; and

(10) *Other activities.* With the Board's prior approval, engage in other activities that the Board determines are usual in connection with the transaction of the business of banking in the places where the member bank's branches transact business.

(c) *Reserves of foreign branches of member banks.* Reserves shall be maintained against foreign branch deposits when required by part 204 of this chapter (Regulation D).

§ 211.4 Edge and Agreement corporations

(a) *Organization*—(1) *Permit.* A proposed Edge corporation shall become a body corporate when the Board issues a permit approving its proposed name, articles of association, and organization certificate.

(2) *Name.* The name shall include "international," "foreign," "overseas," or some similar word, but may not resemble the name of another organization to an extent that might mislead or deceive the public.

(3) *Federal Register notice.* The Board shall publish in the Federal Register notice of any proposal to organize an Edge corporation and shall give interested persons an opportunity to express their views on the proposal.

(4) *Factors considered by the Board.* The factors considered by the Board in acting on a proposal to organize an Edge Corporation include:

(i) The financial condition and history of the applicant;

(ii) The general character of its management;

(iii) The convenience and needs of the community to be served with respect to international banking and financing services; and

(iv) The effects of the proposal on competition.

(5) *Authority to commence business.* After the Board issues a permit, the Edge corporation may elect officers and otherwise complete its organization, invest in obligations of the United States Government, and maintain deposits with depository institutions, but it may not exercise any other powers until at least 25 percent of the authorized capital

[2] For the purpose of this paragraph, a subsidiary other than a bank or an Edge or Agreement corporation is considered to be operating a branch in a foreign country if it has an affiliate that operates an office (other than a representative office) in that country.

[3] For the purpose of this paragraph, a subsidiary other than a bank or an Edge or Agreement corporation is considered to be operating a branch in a foreign country if it has an affiliate that operates an office (other than a representative office) in that country.

[4] "Readily ascertainable events" include, but are not limited to, events such as nonpayment of taxes, rentals, customs duties, or costs of transport and loss of nonconformance of shipping documents.

[5] For this purpose, securities or obligations of a governmental entity or agency or instrumentality are those securities or obligations supported by the taxing authority, guarantee or the full faith and credit of the national government.

[6] For this purpose, securities or obligations of a governmental entity or agency or instrumentality are those securities or obligations supported by the taxing authority, guarantee or the full faith and credit of the national government.

stock specified in the articles of association has been paid in cash, and each shareholder has paid in cash at least 25 percent of that shareholder's stock subscription. Unexercised authority to commence business as an Edge corporation shall expire one year after issuance of the permit, unless the Board extends the period.

(6) *Amendments to articles of association.* No amendment to the articles of association shall become effective until approved by the Board.

(7) *Shareholders Meeting.* An Edge Corporation shall provide in its bylaws that:

(i) A shareholders meeting shall be convened at the request of the Board within five days after the Board gives notice of the request to the Edge corporation;

(ii) Any shareholder or group of shareholders that owns or controls 25 percent or more of the shares of the Edge corporation shall attend such a meeting in person or by proxy; and

(iii) Failure to attend may result in removal or barring of such shareholders from further participation in the management of the Edge corporation.

(b) *Nature and ownership of shares*—(1) *Shares.* Shares of stock in the Edge corporation may not include no-par value shares and shall be issued and transferred only on its books and in compliance with section 25(a) of the FRA and this subpart. The share certificates of an Edge corporation shall:

(i) Name and describe each class of shares indicating its character and any unusual attributes such as preferred status or lack of voting rights; and

(ii) Conspicuously set forth the substance of:

(A) Limitations upon the rights of ownership and transfer of shares imposed by section 25(a) of the FRA; and

(B) Rules that the Edge corporation prescribes in its by-laws to ensure compliance with this paragraph. Any change in status of a shareholder that causes a violation of section 25(a) of the FRA shall be reported to the Board as soon as possible, and the Edge corporation shall take such action as the Board may direct.

(2) *Ownership or Edge corporations by foreign institutions*—(i) *Prior Board approval.* One or more foreign or foreign-controlled domestic institutions referred to in paragraph 13 of section 25(a) of the FRA (12 U.S.C. 619) may apply for the Board's prior approval to acquire directly or indirectly a majority of the shares of the capital stock of an Edge corporation.

(ii) *Conditions and requirements.* Such an institution shall:

(A) Provide the Board information related to its financial condition and activities and such other information as the Board may require;

(B) Ensure that any transaction by an Edge corporation with an affiliate [7] is on substantially the same terms, including interest rates and collateral, as those prevailing at the same time for comparable transactions by the Edge corporation with nonaffiliated persons, and does not involve more than the normal risk of repayment or present other unfavorable features;

(C) Ensure that the Edge corporation will not provide funding on a continual or substantial basis to any affiliate or office of the foreign institution through transactions that would be inconsistent with the international and foreign business purposes for which Edge corporations are organized;

(D) In the case of a foreign institution not subject to section 4 of the BHC Act:

(*1*) Comply with any conditions that the Board may impose that are necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices in the United States; and

(*2*) Give the Board 45 days' prior written notice, in a form to be prescribed by the Board, before engaging in any nonbanking activity in the United States, or making any initial or additional investments in another organization, that would require prior Board approval or notice by an organization subject to section 4 of the BHC Act; in connection with such notice, the Board may impose conditions necessary to prevent adverse effects that may result from such activity or investment; and

(E) Invest in Edge corporations no more than 10 percent of the institution's capital and surplus.

(3) *Change in control*—(i) *Prior notice.* Any person shall give the Board 60 days' prior written notice, in a form to be prescribed by the Board, before acquiring, directly or indirectly, 25 percent or more of the voting shares, or otherwise acquiring control, of an Edge corporation. The Board may extend the 60-day period for an additional 30 days by notifying the acquiring party. A notice under this paragraph need not be filed where a change in control is effected through a transaction requiring the Board's approval under section 3 of the BHC Act (12 U.S.C. 1842).

[7] For purposes of this paragraph, "affiliate" means any organization that would be an "affiliate" under section 23A of the FRA (12 U.S.C. 371c) if the Edge corporation were a member bank.

(ii) *Board review.* In reviewing a notice filed under this paragraph, the Board shall consider the factors set forth in paragraph (a)(4) of this section and may disapprove a notice or impose any conditions that it finds necessary to assure the safe and sound operation of the Edge corporation, to assure the international character of its operation, and to prevent adverse effects such as decreased or unfair competition, conflicts of interest, or undue concentration of resources.

(c) *Domestic branches*—(1) *Prior notice.* An Edge corporation may establish branches in the United States 45 days after the Edge corporation has given notice to its Reserve Bank, unless the Edge corporation is notified to the contrary within that time. The notice to the Reserve Bank shall include a copy of the notice of the proposal published in a newspaper of general circulation in the communities to be served by the branch and may appear no earlier than 90 calendar days prior to submission of notice of the proposal to the Reserve Bank. The newspaper notice must provide an opportunity for the public to give written comment on the proposal to the appropriate Federal Reserve Bank for at least 30 days after the date of publication.

(2) *Factors considered.* The factors considered in acting upon a proposal to establish a branch are enumerated in paragraph (a)(4) of this section.

(3) *Expiration of authority.* Authority to open a branch under prior notice shall expire one year from the earliest date on which that authority could have been exercised, unless the Board extends the period.

(d) *Reserve requirements and interest rate limitations.* The deposits of an Edge or Agreement corporation are subject to parts 204 and 217 of this chapter (Regulations D and Q) in the same manner and to the same extent as if the Edge or Agreement corporation were a member bank.

(e) *Permissible activities in the United States.* An Edge corporation may engage directly or indirectly in activities in the United States that are permitted by the sixth paragraph of section 25(a) of the FRA and are incidental to international or foreign business, and in such other activities as the Board determines are incidental to international or foreign business. The following activities will ordinarily be considered incidental to an Edge corporation's international or foreign business:

(1) *Deposit activities*—(i) *Deposits from foreign governments and foreign persons.* An Edge corporation may

receive in the United States transaction accounts, savings, and time deposits (including issuing negotiable certificates of deposits) from foreign governments and their agencies and instrumentalities, and from; offices or establishments located, and individuals residing, outside the United States. Temporary overdrafts in an account may not be frequent and should be restored within a short period of time.

(ii) *Deposits from other persons.* An Edge corporation may receive from any other person in the United States transaction accounts, savings, and time deposits (including issuing negotiable certificates of deposit) if such deposits:

(A) Are to be transmitted abroad;

(B) Consist of funds to be used for payment of obligations to the Edge corporation or collateral securing such obligations;

(C) Consist of the proceeds of collections abroad that are to be used to pay for exported or imported goods or for other costs of exporting or importing or that are to be periodically transferred to the depositor's account at another financial institution;

(D) Consist of the proceeds of extensions of credit by the Edge corporation;

(E) Represent compensation to the Edge corporation for extensions of credit or services to the customer;

(F) Are received from Edge or Agreement corporations, foreign banks and other depository institutions (as described in part 204 of this chapter (Regulation D));

(G) are received from an organization that by its charter, license or enabling law is limited to business that is of an international character, including Foreign Sales Corporations (26 U.S.C. 921); transportation organizations engaged exclusively in the international transportation of passengers or in the movement of goods, wares, commodities or merchandise in international or foreign commerce; and export trading companies that are exclusively engaged in activities related to international trade.

(2) *Liquid funds.* Funds of an Edge or Agreement corporation that are not currently employed in its international or foreign business, if held or invested in the United States, shall be in the form of:

(i) Cash;

(ii) Deposits with depository institutions, as described in part 204 of this chapter (Regulation D), and other Edge and Agreement corporations; or

(iii) Money market instruments (including repurchase agreements with respect to such instruments) such as bankers acceptances, obligations of or fully guaranteed by federal, state, and local governments and their instrumentalities, federal funds sold, and commercial paper.

(3) *Borrowings.* An Edge corporation may:

(i) Borrow from offices of other Edge and Agreement corporations, foreign banks, and depository institutions (as described in part 204 of this chapter, Regulation D) or issue obligations to the United States or any of its agencies or instrumentalities;

(ii) Incur indebtedness from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency or instrumentality thereof that the Edge corporation is obligated to repurchase;

(iii) Issue long-term subordinated debt that does not qualify as a "deposit" under part 204 of this chapter (Regulation D).

(4) *Credit activities.* An Edge corporation may:

(i) Finance the following:

(A) Contracts, projects, or activities performed substantially abroad;

(B) The importation into or exportation from the United States of goods, whether direct or through brokers or other intermediaries;

(C) The domestic shipment or temporary storage of goods being imported or exported (or accumulated for export); and

(D) The assembly or repackaging of goods imported or to be exported;

(ii) Finance the costs of production of goods and services for which export orders have been received or which are identifiable as being directly for export;

(iii) Assume or acquire participations in extensions of credit, or acquire obligations arising from transactions the Edge corporation could have financed, including acquisitions of obligations of foreign governments;

(iv) Guarantee debts, or otherwise agree to make payments on the occurrence of readily ascertainable events,[8] if the guarantee or agreement specifies the maximum monetary liability thereunder and is related to a type of transaction described in paragraphs (e)(4) (i) and (ii) of this section; and

(v) Provide Credit and other banking services for domestic and foreign purposes to organizations of the type described in § 211.4(e)(1)(ii)(G) of this subpart.

(5) *Payments and collections.* An Edge corporation may receive checks, bills, drafts, acceptances, notes, bonds, coupons, and other instruments for collection abroad, and collect such instruments in the United States for a customer abroad; and may transmit and receive wire transfers of funds and securities for depositors.

(6) *Foreign exchange.* An Edge corporation may engage in foreign exchange activities.

(7) *Fiduciary and investment advisory activities.* An Edge corporation may:

(i) Hold securities in safekeeping for, or buy and sell securities upon the order and for the account and risk of, a person, provided such services for U.S. persons shall be with respect to foreign securities only;

(ii) Act as paying agent for securities issued by foreign governments or other entities organized under foreign law;

(iii) Act as trustee, registrar, conversion agent, or paying agent with respect to any class of securities issued to finance foreign activities and distributed solely outside the United States;

(iv) Make private placements of participations in its investments and extensions of credit; however, except to the extent permissible for member banks under section 5136 of the Revised Statutes (12 U.S.C. 24, Seventh), no Edge corporation may otherwise engage in the business of underwriting, distributing, or buying or selling securities in the United States;

(v) Act as investment or financial adviser by providing portfolio investment advice and portfolio management with respect to securities, other financial instruments, real property interests and other investment assets,[9] and by providing advice on mergers and acquisitions, provided such services for U.S. persons shall be with respect to foreign assets only; and

(vi) Provide general economic information and advice, general economic statistical forecasting services and industry studies, provided such services for U.S. persons shall be with respect to foreign economies and industries only.

(8) *Banking services for employees.* Provide banking services, including deposit services, to the officers and employees of the Edge corporation and its affiliates; however, extensions of credit to such persons shall be subject to the restrictions of part 215 of this

[8] For purposes of this paragraph, "affiliate" means any organization that would be an "affiliate" under section 23A of the FRA (12 U.S.C. 371c) if the Edge corporation were a member bank.

[9] For purposes of this section, management of an investment portfolio does not include operational management of real property, or industrial or commercial assets.

chapter (Regulation O) as if the Edge corporation were a member bank.

(9) *Other activities.* With the Board's prior approval, engage in other activities in the United States that the Board determines are incidental to the international or foreign business of Edge corporations.

(f) *Agreement corporations.* With the prior approval of the Board, a member bank or bank holding company may invest in a federally- or state-chartered corporation that has entered into an agreement or undertaking with the Board that it will not exercise any power that is impermissible for an Edge corporation under this subpart.

§ 211.5 Investments and activities abroad.

(a) *General policy.* Activities abroad, whether conducted directly or indirectly, shall be confined to those of a banking or financial nature and those that are necessary to carry on such activities. In doing so, investors shall at all times act in accordance with high standards of banking or financial prudence, having due regard for diversification of risks, suitable liquidity, and adequacy of capital. Subject to these considerations and the other provisions of this section, it is the Board's policy to allow activities abroad to be organized and operated as best meets corporate policies.

(b) *Investment requirements.*—(1) *Eligible investments.* (i) An investor may directly or indirectly:

(A) Invest in a subsidiary that engages solely in activities listed in paragraph (d) of this section or in such other activities as the Board has determined in the circumstances of a particular case are permissible except that, in the case of an acquisition of a going concern, existing activities that are not otherwise permissible for a subsidiary may account for not more than five percent of either the consolidated assets or revenues of the acquired organization;

(B) Invest in a joint venture provided that, unless otherwise permitted by the Board, not more than 10 percent of the joint venture's consolidated assets or revenues shall be attributable to activities not listed in paragraph (d) of this section;

(C) Make portfolio investments in an organization if the total direct and indirect portfolio investments in organizations engaged in activities that are not permissible for joint ventures, when combined with all securities held in trading or dealing accounts and all equity held pursuant to paragraph (b)(1)(i)(D) of this section, do not at any time exceed 25 percent of the investor's Tier 1 capital where the investor is a bank holding company or 100 percent of Tier 1 capital for any other investor; [10] and

(D) Subject to the aggregate limit established in paragraph (b)(1)(i)(C) of this section, make other equity investments in up to 40 percent of the equity of an organization where the amount invested in the organization, combined with all direct or indirect loans or other extensions of credit to the organization, by the investor does not exceed the general consent limits of § 211.5(c)(1). The authority of this paragraph (D) may not be combined with the authority of paragraphs (b)(1)(i)(B) or (C) of this section.

(ii) A member bank's direct investments under section 25 of the FRA shall be limited to foreign banks and to foreign organizations formed for the sole purpose of either holding shares of a foreign bank or performing nominee, fiduciary, or other banking services incidental to the activities of a foreign branch or foreign bank affiliate of the member bank.

(2) *Investment limit.* In computing the amount that may be invested in any organization under this section, there shall be included any unpaid amount for which the investor is liable and any investments by affiliates.

(3) *Divestiture.* An investor shall dispose of an investment promptly (unless the Board authorizes retention) if:

(i) The organization invested in—

(A) Underwrites, distributes or deals in securities in the United States, or engages in the general business of buying or selling goods, wares, merchandise, or commodities in the United States;

(B) Engages directly or indirectly in other business in the United States that is not permitted to an Edge corporation in the United States except that an investor may hold up to five percent of the shares of a foreign company that engages directly or indirectly in business in the United States that is not permitted to an Edge corporation; or

(C) Engages in impermissible activities to an extent not permitted under paragraph (b)(1) of this section; or

(ii) After notice and opportunity for hearing, the investor is advised by the Board that its investment is inappropriate under the FRA, the BHC Act, or this subpart.

(c) *Investment procedures.* [11] Direct and indirect investments shall be made in accordance with the general consent, prior notice, or specific consent procedures contained in this paragraph. In order for an investor to make investments under the general consent procedure, the investor and any other investor of which it is a subsidiary shall be in compliance with minimum capital adequacy guidelines. The Board may at any time, upon notice, modify or suspend the general consent and prior notice procedures with respect to any investor or with respect to the acquisition of shares of organizations engaged in particular kinds of activities. An investor shall apply for and receive the prior specific consent of the Board for its initial investment in its first subsidiary or joint venture unless an affiliate has made such an investment, and for authority to commence underwriting or dealing in equity securities where the investor is not currently engaged in such activities. Authority to make investments under prior notice or specific consent shall expire one year from the earliest date on which the authority could have been exercised, unless the Board extends the period.

(1) *General consent.* Subject to the other limitations of this section, the Board grants its general consent for the following: [12]

(i) Any investment in a joint venture or subsidiary, and any portfolio or other equity investment described in § 211.5(b)(1) of this subpart, if the total amount invested (in one transaction or in a series of transactions) does not exceed the lesser of:

(A) $25 million; or

(B) 5 percent of the Investor's Tier 1 capital in the case of a member bank, bank holding company, or Edge corporation engaged in banking, or 25 percent of the investor's Tier 1 capital in the case of an Edge corporation not engaged in banking;

(ii) Any additional investment in an organization in any calendar year so long as:

(A) The total amount invested in that calendar year does not exceed 10 percent of the investor's Tier 1 capital; and

(B) The total amount invested under § 211.5 of this subpart (including investments made pursuant to specific

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[10] For this purpose, a direct subsidiary of a member bank is deemed to be an investor.

[11] When necessary, the general consent and prior notice provisions of this section constitute the Board's approval under the eighth paragraph of section 25(a) of the FRA for investments in excess of the limitations therein based on capital and surplus.

[12] In determining compliance with these limits, an investor shall combine the value of all securities of an organization held in trading or dealing accounts with other investments in the same organization. Securities held in trading or dealing accounts are also subject to the limits in § 211.5(d)(15) of this subpart.

consent or prior notice) in that calendar year does not exceed cash dividends reinvested under paragraph (c)(1)(iii) of this section plus 10 percent of the investor's direct and indirect historical cost [13] in the organization, which investment authority, to the extent unexercised, may be carried forward and accumulated for up to five consecutive years;

(iii) Any additional investment in an organization in an amount equal to cash dividends received from that organization during the preceding 12 calendar months; or

(iv) Any investment that is acquired from an affiliate at net asset value.

(2) *Prior notice.* An investment that does not qualify under the general consent procedure may be made after the investor has given 45 days' prior written notice to the Board. The Board may waive the 45-day period if it finds immediate action is required by the circumstances presented. The notice period shall commence at the time the notice is accepted. The Board may suspend the period or act on the investment under the Board's specific consent procedures.

(3) *Specific consent.* Any investment that does not qualify for either the general consent or the prior notice procedure shall not be consummated without the specific consent of the Board.

(d) *Permissible activities.* The Board has determined that the following activities are usual in connection with the transaction of banking or other financial operations abroad:

(1) Commercial and other banking activities;

(2) Financing, including commercial financing, consumer financing, mortgage banking, and factoring;

(3) Leasing real or personal property, or acting as agent, broker, or advisor in leasing real or personal property, if the lease serves as the functional equivalent of an extension of credit to the lessee of the property;

(4) Acting as fiduciary;

(5) Underwriting credit life insurance and credit accident and health insurance;

(6) Performing services for other direct or indirect operations of a United States banking organization, including representative functions, sale of long-term debt, name saving, holding assets acquired to prevent loss on a debt previously contracted in good faith, and other activities that are permissible domestically for a bank holding company under sections 4(a)(2)(A) and 4(c)(1)(C) of the BHC Act;

(7) Holding the premises of a branch of an Edge corporation or member bank or the premises of a direct or indirect subsidiary, or holding or leasing the residence of an officer or employee of a branch or subsidiary;

(8) Providing investment, financial, or economic advisory services;

(9) General insurance agency and brokerage;

(10) Data processing;

(11) Managing a mutual fund if the fund's shares are not sold or distributed in the United States or to United States residents and the fund does not exercise managerial control over the firms in which it invests;

(12) Performing management consulting services provided that such services when rendered with respect to the United States market shall be restricted to the initial entry;

(13) Underwriting, distributing and dealing in debt securities outside the United States;

(14) Underwriting and distributing equity securities outside the United States where:

(i) Any underwriting commitments by an investor and its affiliates (other than an affiliate authorized to underwrite equity securities under section 4(c)(8) of the BHC Act) for the shares of an issuer do not in the aggregate exceed the lesser of $60 million or 25 percent of the investor's Tier I capital, unless the investor or its affiliates have secured binding commitments from subunderwriters or other purchasers, or the investor receives prior approval from the Board to exceed these limits under paragraph (d)(14)(iii) of this section; and

(ii) Any shares of an issuer held by the investor and its affiliates at the end of 30 days after the acquisition of shares in connection with the underwriting otherwise conform to the permissible limits for holding equity shares under paragraphs (b) and (d)(15)(i) of this action; [14] or

(iii) With the prior approval of the Board, underwriting commitments for equity securities exceed the limits of paragraph (d)(14)(i) of this section if:

(A) The amounts approved in excess of the limits of paragraph (d)(14)(i) of this section are fully deducted from the capital of the investor;

(B) In the Board's judgment, the investor is strongly capitalized and would remain so after the deduction required in paragraph (d)(14)(iii)(A) of this section; and

(C) In the case of an underwriting commitment made by a subsidiary of an insured U.S. bank, the parent bank holding company guarantees any losses that the bank may incur in connection with the underwriting.

(15) Dealing in equity securities of foreign issuers outside the United States where:

(i) The amount of equity securities of any one issuer held in dealing accounts of the investor and its affiliates does not exceed the lesser of $30 million or 10 percent of the investor's Tier I capital; and

(ii) All equity securities of an issuer held in all trading or dealing accounts, when combined with all other equity interests in the issuer held by the investor and its affiliates, otherwise conform to the permissible limits for investment in an organization under paragraph (b) of this section;

(16) Operating a travel agency provided that the travel agency is operated in connection with financial services offered abroad by the investor or others;

(17) Underwriting life, accident and health insurance or other similar insurance, including certain types of pension-related insurance, where the associated risks have been previously determined by the Board to be actuarially predictable provided that:

(i) If the activity is conducted or investment is made by a subsidiary of a U.S. insured bank, prior approval of the Board is obtained; and

(ii) The investor's investments in and unsecured credit to the company by the investor or its affiliates shall be deducted from the capital of the investor; for purposes of this paragraph, credit is considered unsecured if it is not fully secured in accordance with the requirements of section 23A of the Federal Reserve Act (12 U.S.C. 371c) or with such other standards as the Board may require;

[13] This "historical cost" of an investment consists of the actual amounts paid for shares or otherwise contributed to the capital accounts, as measured in dollars at the exchange rate in effect at the time each investment was made. It does not include subordinated debt or unpaid commitments to invest even though these may be considered investments for other purposes of this part. For investments acquired indirectly as a result of acquiring a subsidiary, the historical cost to the investor is measured as of the date of acquisition of the subsidiary at the net asset value of the equity interest in the case of subsidiaries and joint ventures, and in the case of portfolio investments, at the book carrying value.

[14] Underwriting commitments for equity securities and any equity securities retained 30 days after their acquisition in connection with an underwriting commitment shall be included in the aggregate portfolio investment limit under § 211.5(b)(1)(i)(C).

(18) Acting as a futures commission merchant in accordance with the standards set forth in § 225.25(b)(18) of the Board's Regulation Y (12 CFR 225.25(b)(18)) with respect to such products as the Board has previously approved, except that where such activities are to be conducted by a subsidiary of a U.S. insured bank on an exchange that requires members to guarantee or otherwise contract to cover losses suffered by other members, the prior approval of the Board is obtained;

(19) Acting as principal or agent in swap transactions relating to currency or interest rate obligations and swap transactions in their derivative products;

(20) Engaging in activities that the Board has determined in Regulation Y (12 CFR 225.25(b)) are closely related to banking under section 4(c)(8) of the BHC Act; and

(21) With the Board's specific approval, engaging in other activities that the Board determines are usual in connection with the transaction of the business of banking or other financial operations abroad and are consistent with the FRA or the BHC Act.

(e) *Debts previously contracted.* Shares or other ownership interests acquired to prevent a loss upon a debt previously contracted in good faith shall not be subject to the limitations or procedures of this section; however, they shall be disposed of promptly but in not event later than two years after their acquisition, unless the Board authorizes retention for a longer period.

(f) *Investments made through debt-for-equity conversations*—(1) *Definitions.* For purposes of this paragraph:

(i) *Eligible country* means a country that, since 1980, has restructured its sovereign debt held by foreign creditors, and any other country the Board deems to be eligible;

(ii) *Investment* has the meaning set forth in § 211.2(j) of this subpart and, for purposes of the investment procedures of this paragraph, shall include loans or other extensions of credit by the bank holding company or its affiliates to a company acquired pursuant to this paragraph; and

(iii) *Loans and extensions of credits* means all direct and indirect advances of funds to a person made on the basis of any obligation of that person to repay the funds.

(2) *Permissible investments.* In addition to investments that may be made under other provisions of this section, a bank holding company may make the following investments through the conversion of sovereign or private debt obligations of an eligible country, either through direct exchange of the debt obligations for the investment or by a payment for the debt in local currency, the proceeds of which are used to purchase the investment:

(i) *Public sector companies.* A bank holding company may acquire up to and including 100 percent of the shares of (or other ownership interests in) any foreign company located in an eligible country if the shares are acquired from the government of the eligible country or from its agencies or instrumentalities.

(ii) *Private sector companies.* A bank holding company may acquire up to and including 40 percent of the shares, including voting shares, of (or other ownership interests in) any other foreign company located in an eligible country subject to the following conditions:

(A) A bank holding company may acquire more than 25 percent of the voting shares of the foreign company only if another shareholder or control group of shareholders unaffiliated with the bank holding company holds a larger block of voting shares of the company;

(B) The bank holding company and its affiliates may not lend or otherwise extend credit to the foreign company in amounts greater than 50 percent of the total loans and extension of credit to the foreign company; and

(C) The bank holding company's representation on the board of directors or on management committees of the foreign company may be no more than proportional to its shareholding in the foreign company.

(3) *Investments by bank subsidiary of bank holding company.* Upon application, the Board may permit an investment to be made pursuant to this paragraph through an insured bank subsidiary of the bank holding company where the bank holding company demonstrates that such ownership is necessary due to special circumstances such as the requirements of local law. In granting its consent, the Board may impose such conditions as it deems necessary or appropriate to prevent adverse effects, including prohibiting loans from the bank to the company in which the investment is made.

(4) *Divestiture* (i) *Time limits for divestiture.* The bank holding company shall divest the shares of or other ownership interests in any company acquired pursuant to this paragraph (unless the retention of the shares or other ownership interest is otherwise permissible at the time required for divestiture) within the longer of ten years from the date of acquisition of the investment except that the Board may extend such period if, in the Board's judgement, such an extension would not be detrimental to the public interest or two years from the date on which the bank holding company is permitted to repatriate in full the investment in the foreign company, but in either case within 15 years of the date of acquisition.

(ii) *Report to Board.* The bank holding company shall report to the Board on its plans for divesting an investment made under this paragraph no later than 10 years after the date the investment is made if the investment may be held for longer than 10 years and shall report to the Board again two years prior to the final date for divestiture, in a manner to be prescribed by the Board.

(iii) *Other conditions requiring divestiture.* All investments made pursuant to this paragraph shall be subject to paragraphs (b)(3)(i) (A) and (B) of this section requiring prompt divestiture (unless the Board upon application authorizes retention) if the company invested in engages in impermissible business in the United States.

(5) *Investment procedures*—(i) *General consent.* Subject to the other limitations of this paragraph, the Board grants its general consent for investments made under this paragraph if the total amount invested does not exceed the greater of $25 million or one percent of the Tier 1 capital of the investor.

(ii) All other investments shall be made in accordance with the procedures of paragraph (c) of this section requiring prior notice or specific consent.

(6) *Conditions*—(i) *Name.* Any company acquired pursuant to this paragraph shall not bear a name similar to the name of the acquiring bank holding company or any of its affiliates.

(ii) *Confidentiality.* Neither the bank holding company nor its affiliates shall provide to any company acquired pursuant to this paragraph any confidential business information or other information concerning customers that are engaged in the same or related lines of business as the company.

§ 211.6 Lending limits and capital requirements.

(a) *Acceptances of Edge corporations*—(1) *Limitations.* An Edge corporation shall be and remain fully secured for:

(i) All acceptance outstanding in excess of 200 percent of its capital and surplus; and

(ii) All acceptances outstanding for any one person in excess of 10 percent of its capital and surplus.

These limitations apply only to acceptances of the types described in paragraph 7 of section 13 of the FRA (12 U.S.C. 372).

(2) *Exceptions.* These limitations do not apply if the excess represents the international shipment of goods and the Edge corporation:

(i) Is fully covered by primary obligations to reimburse it that are guaranteed by banks or bankers; or

(ii) Is covered by participation agreements from other banks, as such agreements are described in § 250.165 of this chapter.

(b) *Loans and extensions of credit to one person*—(1) *Limitations.* Except as the Board may otherwise specify:

(i) The total loans and extensions of credit outstanding to any person by an Edge corporation engaged in banking and its direct or indirect subsidiaries may not exceed 15 percent of the Edge corporation's Tier 1 capital; [15] and

(ii) The total loans and extensions of credit to any person by a foreign bank or Edge corporation subsidiary of a member bank, and by majority-owned subsidiaries of a foreign bank or Edge corporation, when combined with the total loans and extensions of credit to the same person by the member bank and its majority-owned subsidiaries, may not exceed the member bank's limitation on loans and extensions of credit to one person.

(2) *Loans and extensions of credit* means all direct or indirect advances of funds to a person [16] made on the basis of any obligation of that person to repay the funds. These shall include acceptances outstanding not of the types described in paragraph 7 of section 13 of the FRA (12 U.S.C. 372); any liability of the lender to advance funds to or on behalf of a person pursuant to a guarantee, standby letter of credit, or similar agreement; investments in the securities of another organization except where the organization is a subsidiary; and any underwriting commitments to an issuer of securities where no binding commitments have been secured from subunderwriters or other purchasers.

(3) *Exceptions.* The limitations of paragraph (b)(1) of this section do not apply to:

(i) Deposits with banks and federal funds sold;

(ii) Bills or drafts drawn in good faith against actual goods and on which two or more unrelated parties are liable;

(iii) Any bankers' acceptance of the kind described in paragraph 7 of section 13 of the FRA that is issued and outstanding;

(iv) Obligations to the extent secured by cash collateral or by bonds, notes, certificates of indebtedness, or Treasury bills of the United States;

(v) Loans and extensions of credit that are covered by bona fide participation agreements; or

(vi) Obligations to the extent supported by the full faith and credit of the following:

(A) The United States or any of its departments, agencies, establishments, or wholly-owned corporations (including obligations to the extent insured against foreign political and credit risks by the Export-Import Bank of the United States or the Foreign Credit Insurance Association), the International Bank for Reconstruction and Development, the International Finance Corporation, the International Development Association, the Inter-American Development Bank, the African Development Bank, or the Asian Development Bank;

(B) Any organization if at least 25 percent of such an obligation or of the total credit is also supported by the full faith and credit of, or participated in by, any institution designated in paragraph (b)(3)(vi)(A) of this section in such manner that default to the lender will necessarily include default to that entity. The total loans and extensions of credit under this subparagraph to any person shall at no time exceed 100 percent of the capital and surplus of the Edge corporation.

(c) *Capitalization.* An Edge corporation shall at all times be capitalized in an amount that is adequate in relation to the scope and character of its activities. In the case of an Edge corporation engaged in banking, its minimum ratio of qualifying total capital to weighted-risk assets shall be not less than 10 percent, of which at least half shall be in the form of Tier 1 capital. Capital and weighted-risk assets should be determined in accordance with the definitions and procedures of the Board's guidelines on risk-based capital for state member banks (12 CFR part 225, appendixes A and B).

§ 211.7 Supervision and reporting.

(a) *Supervision*—(1) *Foreign branches and subsidiaries.* Organizations conducting international banking operations under this subpart shall supervise and administer their foreign branches and subsidiaries in such a manner as to ensure that their operations conform to high standards of banking and financial prudence. Effective systems of records, controls, and reports shall be maintained to keep management informed of their activities and condition. Such systems should provide, in particular, information on risk assets, liquidity management, and operations of controls and conformance to management policies. Reports on risk assets should be sufficient to permit an appraisal of credit quality and assessment of exposure to loss, and for this purpose provide full information on the condition of material borrowers. Reports on the operations of controls should include internal and external audits of the branch or subsidiary.

(2) *Joint ventures.* Investors shall maintain sufficient information with respect to joint ventures to keep informed of their activities and condition. Such information shall include audits and other reports on financial performance, risk exposure, management policies, and operations of controls. Complete information shall be maintained on all transactions with the joint venture by the investor and its affiliates.

(3) *Availability of reports to examiners.* The reports and information specified in paragraphs (a) (1) and (2) of this section shall be made available to examiners of the appropriate bank supervisory agencies.

(b) *Examinations.* Examiners appointed by the Board shall examine each Edge corporation once a year. An Edge corporation shall make available to examiners sufficient information to assess its condition and operations and the condition and activities of any organization whose shares it holds.

(c) *Reports*—(1) *Reports of condition.* Each edge corporation shall make reports of condition to the Board at such times and in such form as the Board may prescribe. The Board may require that statements of condition or other reports be published or made available for public inspection.

(2) *Foreign operations.* Edge and Agreement corporations, member banks, and bank holding companies shall file such reports on their foreign operations as the Board may require.

(3) *Acquisition of disposition of shares.* A member bank, Edge or Agreement corporation or a bank holding company shall report in a manner prescribed by the Board any acquisition or disposition of shares.

(d) *Filing and processing procedures.* (1) Unless otherwise directed by the Board, applications, notifications, and reports required by this part shall be

[15] For purposes of this subsection, "subsidiary" includes subsidiaries controlled by the Edge corporation but does not include companies otherwise controlled by affiliates of the Edge corporation.

[16] In the case of a foreign government, these include loans and extensions of credit to the foreign government's departments or agencies deriving their current funds principally from general tax revenues. In the case of a partnership or firm, these include loans and extensions of credit to its members and, in the case of a corporation; these include loans and extensions of credit to the corporation's affiliates where the affiliate incurs the liability for the benefit of the corporation.

filed with the Federal Reserve Bank of the district in which the parent bank or bank holding company is located or, if none, the Federal Reserve Bank of the district in which the applying or reporting institution is located. Instructions and forms for applications, notifications and reports are available from the Federal Reserve Banks.

(2) The Board shall act on an application or notification under this subpart within 60 calendar days after the Reserve Bank has accepted the application or notification unless the Board notifies the investor that the 60-day period is being extended and states the reasons for the extension.

Subpart B—Foreign Banking Organizations

3. In § 211.23, paragraphs (d), (e) and (f)(5) are revised and the introductory text of paragraph (f) is republished to read as follows:

* * * * *

(d) *Loss of eligibility for exemptions.* A foreign banking organization that qualified under paragraph (b) of this section or an organization that qualified as a "foreign bank holding company" under § 225.4(g) of Regulation Y (12 CFR 225.4(g) [17] shall cease to be eligible for the exemptions of this section if it fails to meet the requirements of paragraph (b) of this section for two consecutive years as reflected in its Annual Reports (F.R. Y–7) filed with the Board. A foreign banking organization that ceases to be eligible for the exemptions may continue to engage in activities or retain investments commenced or acquired prior to the end of the first fiscal year for which its Annual Report reflects nonconformance with paragraph (b) of this section. Activities commenced or investments made after that date shall be terminated or divested within three months of the filing of the second Annual Report unless the Board grants consent to continue the activity or retain the investment under paragraph (e) of this section. A foreign banking organization that requests a specific determination of eligibility under paragraph (e) of this section may, prior to the Board's determination on eligibility, continue to engage in activities and make investments under the provisions of paragraphs (f) (1), (2) and (4) of this section.

(e) *Specific determination of eligibility for nonqualifying foreign banking organizations.* A foreign banking organization that does not qualify under paragraph (b) of this section for the exemptions afforded by this section, or that has lost its eligibility for the exemptions under paragraph (d) of this section, may apply to the Board for a specific determination of eligibility for the exemptions. A foreign banking organization may apply for a specific determination prior to the time it ceases to be eligible for the exemptions afforded by this section. In determining whether eligibility for the exemptions would be consistent with the purposes of the BHCA and in the public interest, the Board shall consider the history and the financial and managerial resources of the organization; the amount of its business in the United States; the amount, type and location of its nonbanking activities, including whether such activities may be conducted by U.S. banks or bank holding companies; and whether eligibility of the foreign banking organization would result in undue concentration of resources, decreased or unfair competition, conflicts or interests, or unsound banking practices. Such determination shall be subject to any conditions and limitations imposed by the Board including any requirements to cease activities or dispose of investments. Determinations of eligibility would generally not be granted where a majority of the business of the foreign banking organization derives from commercial or industrial activities or where the U.S. banking business of the organization is larger than the non-U.S. banking business conducted directly by the foreign bank or banks (as defined in § 211.2(h) of this chapter) of the organization.

(f) *Permissible activities and investments.* A foreign banking organization that qualifies under paragraph (b) of this section may:

* * * * *

(5) Own or control voting shares of a foreign company that is engaged directly or indirectly in business in the United States other than that which is incidental to its international or foreign business, subject to the following limitations:

(i) More than 50 percent of the foreign company's consolidated assets shall be located, and consolidated revenues derived from, outside the United States;

(ii) The foreign company shall not directly underwrite, sell, or distribute, nor own or control more than 5 percent of the voting shares of a company that underwrites, sells, or distributes securities in the United States except to the extent permitted bank holding companies;

(iii) If the foreign company is a subsidiary of the foreign banking organization, the foreign company must be, or control, an operating company and its direct or indirect activities in the United States shall be subject to the following limitations:

(A) The foreign company's activities in the United States shall be the same kind of activities or related to the activities engaged in directly or indirectly by the foreign company abroad as measured by the "establishment" categories of the Standard Industrial Classification (SIC) (an activity in the United States shall be considered related to an activity outside the United States if it consists of supply, distribution or sales in furtherance of the activity);

(B) The foreign company may engage in activities in the United States that consist of banking, securities, insurance or other financial operations, or types of activities permitted by regulation or order under section 4(c)(8) of the BHCA, only under regulations of the Board or with the prior approval of the Board. Activities within Division H (Finance, Insurance, and Real Estate) of the SIC shall be considered banking or financial operations for this purpose, with the exception of acting as operators of nonresidential buildings (SIC 6512), operators of apartment buildings (SIC 6513), operators of dwellings other than apartment buildings (SIC 6514) and operators of residential mobile home sites (SIC 6515); and operating title abstract offices (SIC 6541). In addition, the following activities shall be considered financial activities and may be engaged in only with the approval of the Board under paragraph (g) of this section: credit reporting services (SIC 7323); computer and data processing services (SIC 7371, 7372, 7373, 7374, 7375, 7376, 7377, 7378, and 7379); armored car services (SIC 7381); management consulting (SIC 8732, 8741, 8742, and 8748); certain rental and leasing activities (SIC 4741, 7352, 7353, 7359, 7513, 7514, 7515, and 7519); accounting, auditing and bookkeeping services (SIC 8721); courier services (SIC 4215 and 4513); and arrangement of passenger transportation (SIC 4724, 4725, and 4729).

* * * * *

4. Subpart C of part 211 is revised to read as follows:

Subpart C—Export Trading Companies

[17] "'[F]oreign bank holding company' means a bank holding company organized under the laws of a foreign country, more than half of whose consolidated assets are located or consolidated revenues derived, outside the United States." (12 CFR 225.4(g)(iii)).

Subpart C—Export Trading Companies

§ 211.31 Authority, purpose and scope.

(a) *Authority.* This subpart is issued by the Board of Governors of the Federal Reserve System ("Board") under the authority of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 et seq.) ("BHC Act") and the Bank Export Services Act (Title II, Pub. L. 97–290, 96 Stat. 1235 (1982)) ("BESA") and the Export Trading Company Act Amendments of 1988 (Title III, Pub. L. 100–418, 102 Stat. 1384 (1988)) ("ETC Act Amendments").

(b) *Purpose and scope.* This subpart is in furtherance of the purposes of the BHC Act, the BESA, and the ETC Act Amendments, the latter two statutes being designed to increase U.S. exports by encouraging investments and participation in export trading companies by bank holding companies and the specified investors. The provisions of this subpart apply to:

(1) Bank holding companies as defined in section 2 of the BHC Act (12 U.S.C. 1841(a));

(2) Edge and Agreement corporations, as described in § 211.1(b) of this part, that are subsidiaries of bank holding companies but are not subsidiaries of banks;

(3) Bankers' banks as described in section 4(c)(14)(F)(iii) of the BHC Act (12 U.S.C. 1843(c)(14)(F)(iii)); and

(4) Foreign banking organizations as defined in § 211.23(a)(2) of this part. These entities are hereinafter referred to as "eligible investors."

§ 211.32 Definitions.

The definitions of § 211.2 in subpart A apply to this subpart subject to the following:

(a) *Export trading company* means a company that is exclusively engaged in activities related to international trade and, by engaging in one or more export trade services, derives:

(1) At least one-third of its revenues in each consecutive four-year period from the export of, or from facilitating the export of, goods and services produced in the United States by persons other than the export trading company or its subsidiaries; and

(2) More revenues in each four-year period from export activities as described in paragraph (a)(1) of this section than it derives from the import, or facilitating the import, into the United States of goods or services produced outside the United States.

For purposes of paragraph (a) of this section, revenues shall include net sales revenues from exporting, importing, or third party trade in goods by the export trading company for its own account and gross revenues derived from all other activities of the export trading company.

(b) The terms *bank, company* and *subsidiary* have the same meanings as those contained in section 2 of the BHC Act (12 U.S.C. 1841).

§ 211.33 Investments and extensions of credit.

(a) *Amount of investments.* In accordance with the procedures of § 211.34 of this subpart, an eligible investor may invest no more than five percent of its consolidated capital and surplus in one or more export trading companies, except than an Edge or Agreement corporation not engaged in banking may invest as much as 25 percent of its consolidated capital and surplus but no more than five percent of the consolidated capital and surplus of its parent bank holding company.

(b) *Extensions of credit.*—(1) *Amount.* An eligible investor in an export trading company or companies may extend credit directly or indirectly to the export trading company or companies in a total amount that at no time exceeds 10 percent of the investor's consolidated capital and surplus.

(2) *Terms.* An eligible investor in an export trading company may not extend credit directly or indirectly to the export trading company or any of its customers or to any other investor holding 10 percent or more of the shares of the export trading company on terms more favorable than those afforded similar borrowers in similar circumstances, and such extensions of credit shall not involve more than the normal risk of repayment or present other unfavorable features. For the purposes of this provision, an investor in an export trading company includes any affiliate of the investor.

(3) *Collateral requirements.* Covered transactions between a bank and an affiliated export trading company in which a bank holding company has invested pursuant to this Subpart are subject to the collateral requirements of section 23A of the Federal Reserve Act (12 U.S.C. 371c), except where a bank issues a letter of credit or advances funds to an affiliated export trading company solely to finance the purchase of goods for which:

(i) The export trading company has a bona fide contract for the subsequent sale of the goods; and

(ii) The bank has a security interest in the goods or in the proceeds from their sale at least equal in value to the letter of credit or the advance.

§ 211.34 Procedures for filing and processing notices.

(a) *Filing notice.*—(1) *Prior notice of investment.* An eligible investor shall give the Board 60 days' prior written notice of any investment in an export trading company.

(2) *Subsequent notice.* An eligible investor shall give the Board 60 days' prior written notice of changes in the activities of an export trading company that is a subsidiary of the investor if the export trading company expands its activities beyond those described in the initial notice to include:

(i) Taking title to goods where the export trading company does not have a firm order for the sale of those goods;

(ii) Product research and design;

(iii) Product modification; or

(iv) Activities not specifically covered by the list of activities contained in section 4(c)(14)(F)(ii) of the BHC Act. Such an expansion of activities shall be regarded as a proposed investment under this subpart.

(b) *Time period for Board action.* (1) A proposed investment that has not been disapproved by the Board may be made 60 days after the Reserve Bank accepts the notice for processing. A proposed investment may be made before the expiration of the 60-day period if the Board notifies the investor in writing of its intention not to disapprove the investment.

(2) The Board may extend the 60-day period for an additional 30 days if the Board determines that the investor has not furnished all necessary information or that any material information furnished is substantially inaccurate. The Board may disapprove an investment if the necessary information is provided within a time insufficient to allow the Board reasonably to consider the information received.

(3) Within three days of a decision to disapprove an investment, the Board shall notify the investor in writing and state the reasons for the disapproval.

(c) *Time period for investment.* An investment in an export trading company that has not been disapproved shall be made within one year from the date of the notice not to disapprove, unless the time period is extended by the Board or by the appropriate Federal Reserve Bank.

(d) *Time period for calculating revenues.* For any export trading company that had commenced operations two years or more prior to August 23, 1988, the four-year period within which to calculate revenues derived from its activities under § 211.32(a) of this subpart shall be deemed to have commenced with the

beginning of the 1988 fiscal year for that export trading company. For all other export trading companies, the four-year period shall commence with the first fiscal year after the respective export trading company has been in operation for two years.

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

1. The authority citation for part 265 continues to read as follows:

Authority: Sec. 11(k), 38 Stat. 261 and 80 Stat. 1314 (12 U.S.C. 248(k)).

2. In § 265.2, paragraphs (f)(46)(iii) and (46)(v) are removed; paragraphs (f)(46)(iv) and (46)(vi) are redesignated as (f)(46)(iii) and (46)(iv) respectively; and paragraph (f)(46)(ii) is revised to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(f) *Each Federal Reserve Bank.* * * *

* * * * *

(46) * * *

(ii) A bank holding company investor and its lead bank meet the minimum capital adequacy guidelines of the Board, the Comptroller of the Currency or the Federal Deposit Insurance Corporation or have enacted capital enhancement plans that have been determined by the appropriate supervisory authority to be acceptable;

* * * * *

Board of Governors of the Federal Reserve System, August 1, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-18403 Filed 8-8-90; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-CE-28-AD]

Airworthiness Directives; Cessna Models 402C and 414A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing Airworthiness Directive (AD), applicable to certain Cessna Models 402C and 414A airplanes, which would require installation of engine mount beam modification kits and discontinuance of the 200 hour repetitive inspections required by the existing AD. FAA policy on aging aircraft is to terminate repetitive short interval inspections when improved parts or modifications are available. The actions specified in this proposal would preclude the loss of engine mount beam structural integrity due to fatigue cracking of the beams.

DATES: Comments must be received on or before September 25, 1990.

ADDRESSES: Cessna Multi-Engine Service Bulletin MEB85-3, Revision 2, dated October 23, 1987, applicable to this AD, may be obtained from the Cessna Aircraft Company, P.O. Box 7704, Wichita, Kansas 67277. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-28-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Lawrence S. Abbott, Wichita Aircraft Certification Office, FAA Central Region, 1801 Airport Road, room 100, Wichita, Kansas 67209, telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-28-AD, room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

AD 85-13-03R2, Amendment 39-5147, appliable to certain Cessna Models 402C and 414A airplanes, was issued September 25, 1985, and published in the **Federal Register** on October 10, 1985 (50 FR 41336). The AD requires initial and repetitive inspections to ensure the structural integrity of the engine mount beams.

Recently, structural failures involving large transport category airplanes have caused the FAA to reexamine the airworthiness issue relating to aging commuter-class airplanes. Public meetings and operator's data have confirmed that airplanes of this class are being operated well beyond the times envisioned by the manufacturer at the time of design and manufacture. Considering the experience gained in the transport industry, the FAA has determined the action must be taken with the aging commuter fleet prior to the occurrence of a catastrophic structural failure.

The continued airworthiness of airplanes can normally be maintained by proper inspection, maintenance, and when necessary, by parts replacement. On airplanes being operated beyond their expected design life, the FAA has determined that long term continued operational safety will be better assured by design changes to remove the source of the problem rather than by repetitive inspections or special operating procedures. Long term special operating procedures may not provide the degree of safety assurance necessary. This, coupled with a better understanding of the human factors associated with numerous continual special procedures, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements.

At an April 1989 public conference, the General Aviation Manufacturers Association (GAMA) and the Regional Airline Association (RAA) recommended twenty-thee (23) separate industry and government actions intended to resolve the aging commuter airplane issue. Recommendation No. 3 stated: "The FAA should take the lead, working closely with industry, to review existing ADs on all airplanes used in regional air carrier service to determine if repetitive inspections need to be replaced by terminating actions."

In February 1990, the FAA conducted a review of the existing ADs applicable to Cessna 402 Series airplanes, and

identified AD 85-13-03R2 (which requires repetitive inspections) as one that could be amended to require installation of an improved part and thereby reduce the low-time interval repetitive inspections. The longer term inspections at engine overhaul (1600 hours TIS, or longer) would be retained. The FAA finds that the action proposed by this notice meets the intent of GAMA/RAA Recommendation No. 3 and is consistent with current FAA policy. Accordingly, since the condition described above is likely to exist or develop on other airplanes of the same type design, an AD is being proposed, applicable to certain Cessna Model 402C and 414A airplanes, which would supersede AD 85-13-03R2 and require modification of the engine mount beams in accordance with Cessna Multi-Engine Service Bulletin MEB85-3, Revision 2. The FAA has determined that there are approximately 340 airplanes affected by the Proposed AD. The cost of the initial inspection and kit installation is estimated to be $4,258 per airplane. The total cost is estimated to be $1,447,720. The FAA has determined, on the basis of the aircraft registration records, that less than ⅓ of the owners of the affected airplanes own more than 1 of the affected airplanes so as to incur a cost greater than the significant amount threshold.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding AD 85-13-03R2, Amendment 39-5147, (50 FR 41336, October 10, 1985), with the following new AD:

Cessna: Applies to Model 402C (Serial Numbers (S/N) 402C0001 through 402C0808) and Model 414A (S/N 414A0001 through 414A1206) airplanes certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished per AD 85-13-03R2. To ensure the structural integrity of the engine mount beams, accomplish the following:

(a) For Model 402C (S/N 402C0001 through 402C0468) and Model 414A (S/N 414A0001 through 414A0646) airplanes, inspect the engine beams for cracks in accordance with the following schedule:

(1) For airplanes with 500 to 1000 hours time-in-service (TIS) that do not have Cessna Service Kit SK414-17 incorporated, within the next 100 hours TIS, and 200 hours TIS thereafter, flourescent penetrant inspect the engine beams in accordance with Cessna Multi-Engine Service Bulletin (S/B) MEB85-3, Revision 2, dated October 23, 1987, Attachment, Section II: Inspection Procedures—Flourescent Penetrant.

(2) For airplanes with more than 1000 hours TIS that do not have Cessna Service Kit SK414-17 incorporated, within the next 50 hours TIS, and each 200 hours TIS thereafter, flourescent penetrant inspect the engine beams in accordance with Cessna Multi-Engine S/B MEB85-3, Revision 2 dated October 23, 1987, Attachment, Section II: Inspection Procedures—Flourescent Penetrant.

(3) For airplanes with Cessna Service Kit SK414-17 installed and that have more than 1550 hours TIS from the time of installation, within the next 50 hours TIS, and each 1600 hours TIS thereafter, radiographic inspect the engine beams in accordance with Cessna Multi-Engine S/B MEB85-3, Revision 2, dated October 23, 1987, Attachment, SECTION III: INSPECTION PROCEDURES—RADIOGRAPHIC.

(4) For airplanes with more than 7950 hours TIS and that do not have the SK414-17 kit installed, within the next 50 hours TIS, modify the airplane by the installation of Cessna Service Kit SK414-19, and radiographic inspect the engine beams at 9600 hour TIS intervals from the time of installation.

(5) The 200 hour inspections required by paragraphs (a)(1) and (a)(2) above are no longer required when the airplane has been modified with Cessna Service Kit SK414-19.

(b) For Model 402C (S/N 402C0469 through 402C0808) and Model 414A (S/N 414A0647 through 414A1206) airplanes inspect the engine beams for cracks in accordance with the following schedule:

(1) For airplanes with more than 7950 hours TIS and that do not have Cessna Service Kit SK414-19 incorporated, within the next 50 hours TIS, and each 8000 hours TIS thereafter, radiographic inspect the beams in accordance with Cessna Multi-Engine S/B MEB85-3, Revision 2, dated October 23, 1987, Attachment, Section III: Inspection Procedures—Radiographic.

(2) For airplanes having Cessna Service Kit SK414-19 incorporated after the first engine overhaul, radiographic inspect the beams at 9600 hour TIS intervals in accordance with Cessna Multi-Engine S/B MEB85-3, Revision 2, dated October 23, 1987, Attachment, Section III: Inspection Procedures—Radiographic.

(3) For airplanes having Cessna Service Kit SK414-19 incorporated prior to the first engine overhaul, radiographic inspections are not required.

(c) If cracks are found as a result of the inspections of paragraph (a) or (b) of this AD, prior to further flight accomplish the following in accordance with Cessna Multi-Engine S/B MEB85-3, Revision 2, dated October 23 1987:

(1) If any cracks are found in the left side (vertical portion) of the left engine beam of either nacelle, contact the Cessna Aircraft Company for special repair disposition through the FAA, Wichita Aircraft Certification Office (ACO), at the address shown in paragraph (e) of this AD.

(2) If cracks found in the tip (horizontal portion) of the beam are less than 1.75 inches, accomplish one of the following actions:

(i) Stop drill the crack and install Cessna Service Kit SK414-19 in accordance with Cessna Multi-Engine S/B MEB85-3, Revision 2, dated October 23, 1987, or

(ii) Stop drill the crack and reinstall Cessna Service Kit SK414-17, and at each interval of 1600 hours TIS thereafter radiographic inspect the engine beams in accordance with Cessna Multi-Engine S/B MEB85-3, Revision 2, dated October 23, 1987.

(3) If cracks found in the top (horizontal portion) of the beam are greater than 1.75 inches, but less than 2.75 inches, contact the manufacturer through the Wichita ACO at the address in paragraph (e) of this AD, for disposition.

(4) If cracks found in the top (horizontal portion) of the beam are 2.75 inches or longer, replace the engine beam in accordance with Cessna Multi-Engine S/B MEB85-3, Revision 2, dated October 23, 1987.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An alternate method of compliance or adjustment of the initial or repetitive compliance times which provides an

equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, Room 100, 1801 Airport Road, Wichita, Kansas 67209.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Cessna Aircraft Company, P.O. Box 7704, Wichita, Kansas 67277; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment supersedes AD 85-13-03R2, Amendment 39-5147.

Issued in Kansas City, Missouri, on August 1, 1990.

Don C. Jacobsen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-18724 Filed 8-8-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 90-AGL-11]

Proposed Alteration to Transition Area; Greenwood, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the existing Greenwood, IN transition area to accommodate a new NDB Runway 36 Standard Instrument Approach Procedure (SIAP) to Greenwood Municipal Airport, Greenwood, IN, and change the airport name from Skyway to Greenwood Municipal. The intended effect of this action is to ensure segregation of the aircraft using approach procedures under instrument flight rules from other aircraft operating under visual flight rules conditions in controlled airspace.

DATES: Comments must be received on or before September 17, 1990.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Asst. Chief Counsel, AGL-7, Attn: Rules Docket No. 90-AGL-11, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Divison, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Divison, System Management Branch, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7568.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90-AGL-11". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be availble for examination in the Rules Docket, FAA Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM'S should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the designated transition area airspace near Greenwood, IN. The present transition area is being modified to accommodate a new NDB Runway 36 SIAP to Greenwood Municipal Airport, Greenwood, IN. The modification to the existing airspace will consist of a 4.5-mile width each side of the 180° bearing from the airport, extending from the existing 6.5-mile radius area to 8.5 miles south of the airport.

The development of a new SIAP requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA had determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Greenwood, IN [Revised]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Greenwood Municipal Airport (lat. 39°37'53"N., long. 86°05'16"W.); within 4.5 miles each side of the 180° bearing from the airport, extending from the 6.5-mile radius area to 8.5 miles south of the runway 86 arrival threshold, excluding that portion which overlies the Indianapolis, IN, transition area.

Issued in Des Plaines, Illinois on July 24, 1990.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 90–18725 Filed 8–8–90; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM90–11–000]

Streamlining Commission Procedures for Review of Staff Action

August 1, 1990.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to streamline its procedures for review of staff actions. The proposed rule would amend § 385.1902 of the Commission's regulations to simplify and accelerate the review process by condensing the previous two-stage appeal procedure into a single stage of review. The requirement to file an appeal from staff action as a prerequisite to filing a request for rehearing would be eliminated. With certain exceptions, orders issued by the Commission's staff pursuant to authority delegated by the Commission would constitute final agency action that is immediately subject to rehearing, pursuant to § 385.713 of the Commission's regulations.

The proposed rule would be effective on its date of issuance of the final rule, and would apply to all appeals of staff action that are pending before the Commission on that date (as well as to review of staff action subsequent to that date). All appeals of staff action that are pending on the effective date of the final rule would be deemed to be requests for rehearing, and all pending notices of intent to act on such pending appeals would be deemed to be orders granting rehearing solely for the purpose of further consideration.

DATES: An original and 14 copies of the written comments on this proposed rule must be filed with the Commission by October 9, 1990.

ADDRESSES: All filings should refer to Docket No. RM90–11–000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Barry Smoler, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–2067.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this notice of proposed rulemaking will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3308, 941 North Capitol Street NE. Washington, DC 20426.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to streamline its procedures for review of staff actions. The proposed rule would amend § 385.1902 of the Commission's regulations to simplify and accelerate the review process by condensing the previous two-stage appeal procedure into a single stage of review. The requirement to file an appeal from staff action as a prerequisite to filing a request for rehearing would be eliminated. With certain exceptions, orders issued by the Commission's staff pursuant to authority delegated by the Commission would constitute final agency action that is immediately subject to rehearing, pursuant to § 385.713 of the Commission's regulations.

The proposed rule would be effective on its date of issuance, and would apply to all appeals of staff action that are pending before the Commission on that date (as well as to review of staff action subsequent to that date). All appeals of staff action that are pending on the effective date of the final rule would be deemed to be requests for rehearing, and all pending notices of intent to act on such pending appeals would be deemed to be orders granting rehearing solely for the purpose of further consideration.

II. Background and Discussion

Subpart C of part 375 of the Commission's regulations sets forth a series of delegations of the Commission's authority to various office directors, including limited authority to subdelegate to their subordinates.[1] Section 375.301(a) provides in part that "[a]ny action by a staff official under the authority of this subpart may be appealed to the Commission in accordance with § 385.1902 of this chapter."

Section 385.1902 provides for a two-stage process for seeking review of orders issued by office directors pursuant to delegated authority. Within 30 days after issuance of a director's order, anyone seeking modification of the order can file an appeal to the Commission. Section 385.1902(a) makes clear that "[a] *Commission decision* on a petition for appeal is a prerequisite to *a request* for rehearing under Rule 713." (Emphasis in the original.)

The vast majority of the staff orders issued on authority delegated by the Commission are issued pursuant to either the Federal Power Act (FPA) [2] or the Natural Gas Act (NGA).[3] Section 313 of the FPA [4] and section 19 of the NGA,[5] as implemented by § 385.713 of

[1] See also § 12.4 of the regulations.

[2] 16 U.S.C. 791a–825r (1988).

[3] 15 U.S.C. 717–717w (1988).

[4] 16 U.S.C. 825l (1988)

[5] 15 U.S.C. 717r (1988).

the regulations, make the filing (and Commission action thereon) of a request for rehearing a prerequisite to filing a petition for review in the court of appeals. Thus, any person desiring to challenge an office director's order in court first has to exhaust two consecutive stages of review by the Commission: (1) An appeal resulting in a Commission order resolving the appeal, followed by (2) a request for rehearing resulting in an order on rehearing. These two stages are not hierarchical in the sense of appealing from a lower authority to a higher authority; on the contrary, the order on appeal and the order on rehearing are both issued by the Commission itself.

The Commission's experience has been that, when an appeal of staff action is followed by a request for rehearing of the order resolving the appeal, in most cases the request for rehearing is filed by the same person who filed the appeal of staff action, and reiterates on rehearing the same arguments that had been raised in the appeal. Thus, while a significant percentage of appeals of staff action result in Commission orders modifying or reversing the staff action, requests for rehearing of the Commission's orders on appeal rarely result in modification or reversal on rehearing. The primary reason for this is that the person requesting rehearing in most cases has already fully expressed his views in the prerequisite appeal of staff action, and the Commission has fully considered those views in its order resolving the appeal. The rehearing process therefore constitutes, in most cases, an additional procedural step with minimal value to the proceeding, especially when balanced against its demands on the time and resources of parties, the Commission, and its staff.

For these reasons, the Commission proposes to eliminate the intermediate step of filing an appeal of staff action as a prerequisite to filing a request for rehearing. The final rule would amend § 385.1902 to construe orders issued by office directors pursuant to authority delegated by the Commission to the staff as final agency action that is immediately subject to a request for rehearing under § 385.713.

We stress that this change would not in any way lessen the opportunity to seek review by the Commission of orders issued by the staff on delegated authority. Anyone seeking modification or reversal of an office director's order would have the same opportunity to appeal it to the Commission; the only changes would be that: (1) The appeal would now be styled a "request for rehearing" rather than an "appeal of staff action"; and (2) the Commission's order would be ripe for review in court without first exhausting a second stage of review by the Commission.[6]

New § 385.1902(a) would provide two exceptions to these procedures. The first would preserve without change the exception for decisions and rulings of presiding officers made in proceedings set for hearing under subpart E of part 385. Those decisions and rulings would continue to be subject to the procedures for exceptions, briefs and interlocutory appeals in §§ 385.711 and 385.715.[7]

The second exception would be for orders issued by the Oil Pipeline Board pursuant to the delegation of authority in § 385.306.[8] Those orders are subject to the statutory procedural requirements of section 17 of the Interstate Commerce Act (ICA).[9] Section 17(5) of the ICA provides a 20-day period in which interested parties may file exceptions to those orders.

Section 17(6) of the ICA authorizes the Commission to provide for rehearing. It requires rehearing by the Commission as a prerequisite for court review with respect to orders issued by the Commission's staff on delegated authority, but not with respect to orders issued by the Commission itself. New § 385.1902(b) would implement this statutory discretion by providing: (1) That the filing of exceptions is not a prerequisite to the filing of a request for rehearing; (2) that the filing of a request for rehearing is not a prerequisite to the filing of a petition for review in the court of appeals of an order issued by the Commission pursuant to the ICA; but (3) that the filing of a request for rehearing is a prerequisite for filing a petition for review in the court of appeals of an order issued by the Oil Pipeline Board if the Commission has not issued an order on exceptions to the Oil Pipeline Board's order. Thus, after the Oil Pipeline Board had issued its order, interested persons could file either exceptions or a request for rehearing, and the filing of one or the other (but not both) would be a prerequisite to filing a petition for review in the court of appeals.

With respect to administrative appeals of orders issued by the Oil Pipeline Board, the final rule would differ from the Commission's present practice in several respects. Section 385.1902 currently provides 30 days in which to file an "appeal of staff action," and such an appeal is a prerequisite to filing a request for rehearing. Proposed new § 385.1902(b) would provide 20 days (instead of 30) to file "exceptions" to the Oil Pipeline Board's orders, but the filing of exceptions would not be a prerequisite to the filing of a request for rehearing. Further, in recognition of the ICA provision for a 20-day period for filing exceptions, the final rule would provide that requests for rehearing may be filed up to 50 days after service of Oil Pipeline Board orders if no exceptions were filed within the 20-day period after service of the order (*i.e.*, 30 days after expiration of the 20-day period). If exceptions were filed, the deadline for requesting rehearing would be 30 days after issuance of the Commission order on the exceptions (*i.e.*, the same 30-day deadline for all other requests for rehearing under § 385.713).

We recognize that there are approximately 126 appeals of staff action currently pending before the Commission for decision. The Commission has issued notices of intent to act on these appeals, such that they are not deemed denied automatically in the absence of a Commission order on their merits within 30 days of the filing of the appeal. New § 385.1902(c) of the final rule would deem all appeals of staff action that are pending before the Commission on the effective date of the final rule to be requests for rehearing, and all notices of intent to act on those appeals to be orders granting rehearing for the sole purpose of further consideration. Thus, there would be no need for any person to file a request for rehearing with respect to any pending appeal of staff action.[10] New § 385.1902(c) would, however, provide a one-time 30-day opportunity to file supplementary pleadings with respect to any appeal of staff action that was filed prior to the effective date of the final

[6] Note, however, that the proposed rule would not alter in any way the existing requirements (imposed by the FPA and the NGA, as interpreted by the courts) that an argument not raised on rehearing before the Commission cannot be raised on judicial review. *See, e.g.*, Sierra Association for Environment v. FERC, 791 F.2d 1403, 1406-07 (9th Cir. 1986); Delmarva Power & Light Co. v. FERC, 770 F.2d 1131, 1137 (D.C. Cir. 1985). Thus, if the Commission on rehearing reversed an order issued (pursuant to the FPA or the NGA) on delegated authority by an office director, and thereby aggrieved someone other than the person who requested the rehearing, the newly aggrieved person would need to file a request for rehearing of the order on rehearing as a prerequisite to filing a petition for review in the court of appeals.

[7] 18 CFR 385.711 and 385.715 (1990).

[8] 18 CFR 375.306 (1990).

[9] 49 U.S.C. 17 (1976).

[10] Note that the proposed rule would not affect in any way the previously existing requirement to file a request for rehearing as a prerequisite to filing a petition for review in the court of appeals with respect to all orders on appeal of staff action that were issued prior to the effective date of the final rule. Similarly, the proposed rule would have no effect on requests for rehearing that are currently pending before the Commission.

rule and was pending for decision on that date.

Attached to this order are two appendices listing the dockets that we believe fall within the parameters of proposed new § 385.1902(c). In the event that the Commission adopts its proposal as a final rule, it would update the appendices at that time.

We also point out that, pursuant to section 313 of the FPA and section 19 of the NGA, prosecuting a request for rehearing is a prerequisite to filing a petition for review in the court of appeals, and the request for rehearing must be filed within 30 days of the date of issuance of the office director's order sought to be reheard. Unlike the 30-day limit for filing the appeals of staff action, the 30-day limit for filing requests for rehearing is prescribed by statute and cannot be waived or extended by the Commission.

The Commission recognizes that this new procedural approach would reduce from two to one the opportunities for aggrieved parties to obtain review by the Commission. For the reasons stated herein, the Commission believes on balance that the new approach is still merited. However, in order to ensure that the new approach in appropriate circumstances could provide a similar opportunity for Commission review, the Commission in its discretion would pursue a policy of entertaining motions for reconsideration after acting on the order on rehearing. Thus, an aggrieved party could appeal the staff action, which would be deemed a final order of the Commission, to the Commission in a request for rehearing. Once the Commission had acted on the request for rehearing, and if the aggrieved party still did not agree with the order on rehearing, the aggrieved party could then either (1) seek immediate judicial review of the order on rehearing or (2) if the aggrieved party believed that the Commission had not fully grasped the facts presented in its request for rehearing, file a motion for reconsideration of the order on rehearing. Once the Commission acted on the motion for reconsideration, which we would intend to do on an expeditious basis, the aggrieved party could then decide to forego judicial review or file an appeal with the U.S. Circuit Court.[11] Thus, the new approach would ensure that appeals of staff action receive the same general level of scrutiny available today, as a matter of Commission policy even though not provided expressly by statute. The Commission seeks comment on this policy approach and such use of the motion for reconsideration procedure as an additional opportunity for considering and resolving appeals of staff action.

III. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA)[12] generally requires a description and analysis of rules that will have a significant economic impact on a substantial number of small entities. The rule proposed herein is purely procedural in nature, and would streamline the Commission's processes by eliminating duplicative stages of review. Accordingly, the Commission certifies that this rule would not have a "significant economic impact on a substantial number of small entities."

IV. Environmental Statement

The Commission concludes that promulgating the proposed rule would not represent a major Federal action having a significant adverse effect on the human environment under the Commission regulations implementing the Natural Environmental Policy Act.[13] The proposed rule is procedural in nature and therefore falls within the categorical exemptions provided in the Commission's regulations. Consequently, neither an environmental impact statement nor an environmental assessment is required.[14]

V. Comment Procedure

The Commission invites interested persons to submit written comments on the matters proposed in this notice. An original and 14 copies of the written comments must be filed with the Commission no later than October 9, 1990. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, and should refer to Docket No. RM90–11–000.

Written comments will be placed in the public files of the Commission and will be available for inspection at the Commission's Public Reference Room, at 825 North Capitol St., NE., Washington, DC, 20426, during regular business hours.

List of Subjects in 18 CFR Part 385

Administrative practice and procedure, Pipeline, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission proposes to amend part 385, chapter I, title 18 of the Code of Federal Regulations as set forth below.

By direction of the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

PART 385—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 385 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 1978 Comp., p. 142; Administrative Procedure Act, 5 U.S.C. 551–557; Independent Offices Appropriations Act, 31 U.S.C. 9701; Federal Power Act, 16 U.S.C. 717–717w; Natural Gas Policy Act, 15 U.S.C. 3301–3432; Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645; Interstate Commerce Act, 49 U.S.C. 1–27.

2. Section 385.1902 is revised to read as follows:

§ 385.1902 Appeals from action of staff (Rule 1902).

(a) Any staff action (other than a decision or ruling of presiding officer, as defined in Rule 102(e)(1), made in a proceeding set for hearing under subpart E of this part, or a decision of the Oil Pipeline Board under § 375.306 of this chapter) taken pursuant to authority delegated to the staff by the Commission is a final agency action that is subject to a request for rehearing under Rule 713 (request for rehearing).

(b) Orders issued by the Oil Pipeline Board pursuant to § 375.306 of this chapter are subject to the procedural rules in section 17 of the Interstate Commerce Act, 49 U.S.C. 17. Interested parties may file exceptions to Oil Pipeline Board orders no later than 20 days after the service of such orders. If no exceptions are filed within this 20-day period, interested parties may file requests for rehearing pursuant to Rule 713 no later than 50 days after service of the Oil Pipeline Board's order. Interested parties may also file requests for rehearing, pursuant to Rule 713, of orders issued by the Commission on exceptions to Oil Pipeline Board orders. The filing of exceptions is not a prerequisite to filing a request for rehearing. The filing of either exceptions or a request for rehearing (but not both) is a prerequisite to filing a petition for

[11] We note, however, that the deadlines for filing petitions for review in the court of appeals are statutory and cannot be waived or tolled by the Commission, and that the filing of a motion for reconsideration would not extend those statutory deadlines for seeking court review.

[12] 5 U.S.C. 601–612 (1988).

[13] 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (Dec. 10, 1987) (*codified at* 18 CFR part 380).

[14] *See* 18 CFR 380.4(a)(1) (1990).

review in the court of appeals of any order issued by the Oil Pipeline Board. The filing of a request for rehearing is not a prerequisite to the filing of a petition for review in the court of appeals of any order issued by the Commission pursuant to the Interstate Commerce Act.

(c) All appeals of staff action that were timely filed prior to [insert date of issuance of final rule] and that had not been acted upon by the Commission on their substantive merits are deemed to be timely filed requests for rehearing of final agency action. All notices issued by the Commission prior to [insert date of issuance of final rule] stating the Commission's intent to act on appeals of staff action such that they are not deemed denied by the expiration of a 30-day period after the filing of the appeal, are deemed to be orders granting rehearing of final agency action for the sole purpose of further consideration, unless the Commission issued an order on the substantive merits of the appeal prior to [insert date of issuance of final rule]. No later than [insert date that is 30 days after date of issuance of final rule], persons who had timely filed appeals of staff action prior to [insert date of issuance of final rule] which were pending before the Commission on that date may file additional pleadings to update or supplement those appeals.

[FR Doc. 90-18619 Filed 8-8-90; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 228

RIN 1010-AB36

Removal of Federal Funding Limitation for State and Indian Cooperative Agreements

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: The Minerals Management Service (MMS) is proposing to amend its regulations governing the funding of cooperative agreements with States or Indian tribes. The amendments would remove the 50-percent limitation in the current regulations for the Federal share of funding of eligible activities under cooperative agreements. The amended regulations would permit the Federal Government to fund 100 percent of eligible activities under a cooperative agreement with a State or Indian tribe.

DATES: Comments must be received on or before September 10, 1990.

ADDRESSES: Written comments should be mailed to the Minerals Management Service, Royalty Management Program, Rules and Procedures Branch, Denver Federal Center, Buildling 85, P.O. Box 25165, Mail Stop 3910, Denver, Colorado 80225, Attention: Dennis C. Whitcomb.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, (303) 231-3432 or (FTS) 326-3432.

SUPPLEMENTARY INFORMATION: The principal author of this proposed rulemaking is Marvin D. Shaver of the Rules and Procedures Branch, Royalty Management Program, Minerals Management Service, Lakewood, Colorado.

Section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1719, authorizes the Secretary of the Interior to enter into a cooperative agreement with any State or Indian tribe to share oil and gas royalty management information, to carry out inspection, auditing, investigation, or enforcement (not including the collection of royalties, civil or criminal penalties or other payments) activities under FOGRMA and to carry out other activities described in section 108 of FOGRMA. The MMS's implementing regulations at 30 CFR part 228 provide that the Federal share of funding of such activities is limited to not more than 50 percent of the cost of eligible activities as established under the terms of the cooperative agreement.

In February 1988, the Special Committee on Investigations of the U.S. Senate Select Committee on Indian Affairs (Select Committee) initiated a comprehensive investigation into the Federal Government's relationship with American Indians. On May 12, 1989, MMS representatives testified before the Committee that MMS was committed to work to improve services to the Indian community. To fulfill that commitment, the MMS Director created a task force to evaluate the Committee's concerns and develop an improvement plan. The MMS task force, with input from State and tribal auditors, Indian tribes and allottees, and MMS royalty management personnel, identified several initiatives to improve services to the Indian community. One of these initiatives was to remove the 50-percent Federal funding limitation on cooperative agreements provided for in 30 CFR 228.105 and 228.107. The task force recommended that the funding for Indian cooperative agreements should be the same as delegated agreements with States, which are reimbursed at 100 percent, to provide equity for all groups.

In July 1989, MMS requested formal review of the proposed improvements by the Department of the Interior's Royalty Management Advisory Committee (RMAC). The RMAC, chartered by the Secretary to advise him on royalty management issues, is comprised of representatives from industry, States, and Indian tribes and allottees. The RMAC established a work panel representing these constituent interests to review the proposed initiatives and provide recommendations to RMAC. Based on recommendations of the work panel, RMAC accepted the proposed initiative to remove the 50-percent Federal funding limitation on cooperative agreements. The RMAC made this recommendation in its final report to the Secretary on September 13, 1989. The RMAC recommended the proposed initiative to be responsive to Indian tribal concerns. The RMAC also concluded that the proposed initiative to be responsive to Indian tribal concerns. The RMAC also concluded that the proposed initiative provides more equity in the funding of State and Indian audit agreements, and that it could increase the number of cooperative agreements in the future.

During September 1989, MMS provided the Select Committee with a list of proposed improvements and a copy of the RMAC report. The Select Committee was advised that the proposed initiatives for improvements would be incorporated into and MMS Action Plan. The MMS Action Plan was published in February 1990 and included an action item to propose to modify existing regulations governing section 202 cooperative agreements to allow 100 percent reimbursement for eligible cooperative agreement audit costs.

Although a State can enter into a cooperative agreement under the provisions of section 202 of FOGRMA and 30 CFR part 228, no State has requested to do so. Several States have elected to petition for a delegation of authority for audit activities under section 205 of FOGRMA and implementing regulations at 30 CFR part 229 which provide for a 100 percent reimbursement of eligible costs. Removal of the 50-percent funding limitation on the Federal share of costs under a cooperative agreement may encourage States who do not have a delegation of authority to enter into cooperation agreements since audit costs would be eligible for 100 percent reimbursement.

This proposed rulemaking would amend existing MMS regulations at 30 CFR 228.105 and 228.107 to remove the 50-percent Federal funding limitation under a State or an Indian cooperative agreement. Under the proposed rule, MMS will only reimburse States and Indian tribes for eligible costs based on the satisfactory performance of activities as established under the terms of the cooperative agreement.

The policy of the Department is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule to the location identified in the **ADDRESSES** section of this Notice. Comments must be received on or before the day specified in the **DATES** section of this Notice.

II. Procedural Matters

Executive Order 12291 and the Regulatory Flexibility Act

The Department has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Executive Order 12630

Because this rule would result in an increase in funds to States and Indian tribes that have entered into a cooperative agreement, the Department certifies that the rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared pursuant to Executive Order 12630, "Government Action and Interference with Constitutionally Protected Property Rights."

Paperwork Reduction Act of 1980

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act of 1969

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

List of Subjects in 30 CFR Part 228

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Penalties, Petroleum, Public lands-mineral resources, Reporting and recordkeeping requirements.

Dated: June 13, 1990.

James M. Hughes,

Deputy Assistant Secretary—Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR part 228 is proposed to be amended as set forth below:

PART 228—COOPERATIVE ACTIVITIES WITH STATES AND INDIAN TRIBES

1. The authority citation for part 228 continues to read as follows:

Authority: Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.).

2. Section 228.105, under subpart C, is amended to revise paragraph (a) and to add a new paragraph (c) to read as follows:

228.105 Funding of cooperative agreements.

(a) The Department of the Interior shall reimburse the State or Indian tribe for eligible activities undertaken under the terms of the cooperative agreement. Eligible activities will be agreed upon annually upon the submission and approval of a workplan and funding requirement. The State or Indian tribe shall maintain books and records in accordance with chapter 1, 48 CFR subpart 31.107 and 48 CFR 31.6 (Contracts with State, local, and federally recognized Indian tribal Governments).

(b) * * *

(c) The State or Indian tribe shall submit a voucher for reimbursement of costs incurred within 30 days of the end of each calendar quarter. The State or Indian tribe must provide the Department a summary of costs incurred, for which the State or Indian tribe is seeking reimbursement, with the voucher.

3. Paragraph (a) of § 228.107, under subpart C, is revised to read as follows:

228.107 Eligible cost of activities.

(a) Only costs directly associated with eligible activities undertaken by the State or Indian tribe under the terms of a cooperative agreement will be eligible for Federal funding. Costs of services or activities which cannot be directly related to the support of activities specified in the agreement will not be eligible for Federal funding or for inclusion in the State's share or in the Indian tribe's share of funding that may be established in the agreement.

* * * * *

[FR Doc. 90-18686 Filed 8-8-90; 8:45 am]

BILLING CODE 4310-MR-M

Notices

Federal Register
Vol. 55, No. 154
Thursday, August 9, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

August 3, 1990.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Public Law 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2119.

Revision

• National Agricultural Statistics Service,
Farm Costs and Returns Survey,
Annually,
Farms; 19,500 responses; 28,099 hours; not applicable under 3504(h),
Larry Gambrell, (202) 447–7737.

• National Agricultural Statistics Service,
Water Quality/Food Safety Survey Program,
On occasion,
Farms; 6,440 responses; 8,525 hours; not applicable under 3504(h),
Larry Gambrell, (202) 447–7737.

• Farmers Home Administration,
7 CFR 1948–C, Intermediary Relending Program,
1948–1,
Recordkeeping; On occasion,
State or local governments; Business or other for-profit; Non-profit institutions; Small businesses or organizations; 576 responses; 6,923 hours; not applicable under 3504(h),
Jack Holston, (202) 382–9736.

Extension

• Food and Nutrition Service,
State Issuance and Participation Estimates,
FNS–388,
Monthly,
State or local governments; 636 responses; 4,542 hours; not applicable under 3504(h),
John Bedwell, (703) 756–3386.

• Food and Nutrition Service,
Integrated Quality Control Review—Worksheet,
FNS–380,
Recordkeeping; On occasion,
Individuals or households; State or local governments; 68,700 responses; 619,921 hours; not applicable under 3504(h),
Charlene Simmons, (703) 756–3472.

Larry K. Roberson,

Acting Departmental Clearance Officer.

[FR Doc. 90–18602 Filed 8–8–90; 8:45 am]

BILLING CODE 3410–01–M

Advisory Committee on Foreign Animal and Poultry Diseases: Notice of Renewal; Selection of Members

AGENCY: U.S. Department of Agriculture (USDA).

ACTION: Notice of renewal of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases; selection of members.

SUMMARY: We are giving notice that the Secretary of Agriculture has renewed the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases (Committee) for a two-year period. The Secretary has determined that the Committee is necessary and in the public interest. Also, the Secretary is soliciting nominations for membership for this Committee.

FOR FURTHER INFORMATION CONTACT: Dr. M.A. Mixson, Chief Staff Veterinarian, VS, APHIS, USDA, room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8073.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to advise the Secretary regarding program operations and measures to suppress, control, or eradicate an outbreak of foot-and-mouth disease or other destructive foreign animal or poultry diseases, in the event any of these diseases should enter the United States. The Committee also advises the Secretary of Agriculture of means to prevent these diseases.

The Chairman shall be elected by the Committee from among its members.

Terms will expire for the 19 current members of the Committee in August 1990. We are soliciting nominations from interested organizations and individuals to replace members on the Committee. An organization may nominate individuals from within or outside its membership. The Secretary will select members to obtain the broadest possible representation on the Committee, in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) and USDA Departmental Regulation 1041–1. Equal opportunity practices, in line with USDA policies, will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership shall include minorities, women, and persons with disabilities.

The public may submit nominations or other comments to the person listed under **"FOR FURTHER INFORMATION CONTACT."**

Done in Washington, DC, this 27th day of July 1990.

Adis M. Vila,

Assistant Secretary for Administration.

[FR Doc. 90–18735 Filed 8–8–90; 8:45 am]

BILLING CODE 3410–34–M

National Animal Damage Control Advisory Committee: Notice of Renewal; Selection of Members

AGENCY: U.S. Department of Agriculture (USDA).

ACTION: Notice of renewal of the National Animal Damage Control Advisory Committee; Selection of Members.

SUMMARY: We are giving notice that the Secretary of Agriculture has renewed the National Animal Damage Control Advisory Committee (Committee) for a two-year period. The Secretary has determined that the Committee is necessary and in the public interest. Also, the Secretary is soliciting nominations for membership for this Committee.

FOR FURTHER INFORMATION CONTACT: Gary Larson, Director, Operational Support Staff, ADC, APHIS, USDA, room 821, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8281.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to advise the Secretary concerning policies, program issues, and research needed to conduct the Animal Damage Control Program. The Committee also serves as a public forum enabling those affected by the Animal Damage Control Program to have a voice in the program's policies.

The Chairman shall be elected by the Committee from among its members.

Terms will expire for the 20 current members of the Committee in September 1990. We are soliciting nominations from interested organizations and individuals to replace members on the Committee. An organization may nominate individuals from within or outside its membership. The Secretary will select members to obtain the broadest possible representation on the Committee, in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) and USDA Departmental Regulation 1041–1. Equal opportunity practices, in line with USDA policies, will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership shall include minorities, women, and persons with disabilities.

The public may submit nominations or other comments to the person listed under **"FOR FURTHER INFORMATION CONTACT."**

Done in Washington, DC., this 2nd day of August 1990.

Adis M. Vila,

Assistant Secretary for Administration.

[FR Doc. 90-18736 Filed 8-8-90; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

[Docket No. 90-018N]

Hazard Analysis and Critical Control Point; Request for Public Comment

SUMMARY: The Food Safety and Inspection Service (FSIS) is requesting comments on the Hazard Analysis and Critical Control Point (HACCP) system as part of a 2-year study to determine the best way to incorporate HACCP into meat and poultry inspection operations.

DATES: Written comments will be accepted on or before August 20, 1990.

ADDRESSES: Comments should be mailed or hand delivered to: Ms. Catherine M. DeRoever, Director, Executive Secretariat, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 3175 South Building, 14th and Independence Avenue, SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Ms. Denise Clarke, Deputy Director, Information and Legislative Affairs, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 1148 South Building, 14th and Independence Avenue, SW., Washington, DC 20250; telephone (202) 447–7608.

SUPPLEMENTARY INFORMATION: HACCP is a logical, simple, but highly specialized system of food safety control. It is designed to be a system for preventing public health and other problems from occurring. The system can be used to control any point in the food production system where a "hazardous and/or a critical" situation could result, whether it be from contamination with pathogenic microorganisms, chemical residues, or physical objects; economic adulteration; or problems resulting from the raw materials, any process, use directions for the consumer, storage conditions, or the distribution system. HACCP was designed to be the optimal method for ensuring control of a food manufacturing process.

FSIS has recently concluded a series of five HACCP public hearings. At those hearings, the Agency requested input on the following topics:

(a) Selection of specific products and processes as subjects for workshops to develop generic HACCP plans.

(b) Objectives and format of the workshops.

(c) Role of the FSIS Special Team—seven agency employees with strong backgrounds in all areas of inspection.

(d) Selection of volunteer pilot plants for inplant testing of generic HACCP plans.

(e) Criteria for evaluating generic HACCP plans and the effectiveness of HACCP.

(f) Follow up with interested parties during and after the 2-year study.

(g) Reporting and disseminating the study's conclusions.

(h) HACCP training needs for both FSIS inspectors and industry personnel.

Copies of the hearing transcripts and the Agency's Concept and Strategy papers are available for public inspection in the office of the Executive Secretariat at the above address.

This notice is to afford interested parties who were unable to participate in the hearings an opportunity to comment on the HACCP system, as well as the aforementioned topics.

(Done at Washington, DC on August 6, 1990.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 90-18731 Filed 8-8-90; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 91034-0144]

RIN 0693-AA79

Proposed Changes to Proposed Federal Information Processing Standard (FIPS) for GOSIP Conformance and Interoperation Testing and Registration

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Request for comments.

SUMMARY: A notice in the **Federal Register** (54 FR 47254) on November 13, 1989, requested comments on a proposed FIPS for GOSIP Conformance and Interoperation Testing and Registration. NIST has received comments concerning the lack of provision for conformance testing of link and physical layer protocols for GOSIP. Originally, NIST believed that this testing was not cost justified. However, based on the comments received, we have reconsidered this issue and propose incorporating the requirements for testing for the following protocols: 8802.2 LLC testing, 8802.3, 8802.4, 8802.5 plus RS232C and V.35 physical testing.

Since this requirement embodies a substantial material change to the

proposed FIPS which will be submitted to the Secretary of Commerce for approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

Interested parties may obtain a copy of the proposed changes to sections 7.2 and 7.3 of the proposed FIPS for GOSIP Conformance and Interoperation Testing and Registration and a copy of the proposed FIPS from the Standards Processing Coordinator (ADP), National Institute of Standards and Technology, Technology Building, room B–64, Gaithersburg, MD 20899, telephone (301) 975–2816. The information collection requirements subject to the Paperwork Reduction Act in the specification section have been approved by the Office of Management and Budget under Control No. 0693–0003.

DATES: Comments on these proposed changes must be received on or before September 24, 1990.

ADDRESSES: Written comments concerning the proposed changes should be sent to: Director, National Computer Systems Laboratory, ATTN: Modified Proposed FIPS for GOSIP Conformance Testing, Technology Building, room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Nightingale, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–3616.

Authority: Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Pub. L. 100–235.

Dated: August 6, 1990.

John W. Lyons,

Director.

[FR Doc. 90–18703 Filed 8–8–90; 8:45 am]

BILLING CODE 3510–CN–M

[Docket No. 900797–0197]

National Voluntary Laboratory Accreditation Program; 1990 Directory and Supplement

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Publication of 1990 NVLAP Directory and Supplement.

SUMMARY: The National Institute of Standards and Technology (NIST) announces the publication of the 1990 NVLAP Directory of Accredited Laboratories and first quarterly supplement listing of laboratories accredited and de-accredited through June 30, 1990. To obtain copies, write to the National Voluntary Laboratory Accreditation Program (NVLAP), National Institute of Standards and Technology, Building 411, room A124, Gaithersburg, MD 20899. Please include a self-addressed mailing label.

FOR FURTHER INFORMATION CONTACT: Nancy M. Trahey, Chief, Laboratory Accreditation Program, National Institute of Standards and Technology, Gaithersburg, MD 20899, (301) 975–4016.

SUPPLEMENTARY INFORMATION: The Directory of NVLAP Accredited Laboratories (NISTIR 90–4290) is published annually pursuant to § 7.6(b) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (title 15, part 7, of the Code of Federal Regulations). The supplements to the Directory are published quarterly.

Previous Directories and supplements are superseded with this notice.

Dated: August 6, 1990.

John W. Lyons,

Director.

[FR Doc. 90–18704 Filed 8–8–90; 8:45 am]

BILLING CODE 3510–13–M

Computer System Security and Privacy Advisory Board; Meeting

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app., notice is hereby given that the Computer Systems Security and Privacy Advisory Board will meet Tuesday, September 11, 1990, and Wednesday, September 12, 1990, from 9 a.m. to 4:30 p.m. This is the sixth meeting of the Advisory Board established by the Computer Security Act of 1987 (Pub. L. 100–235) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to Federal computer systems.

DATES: The meeting will be held on September 11 and 12, 1990, from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The meeting will take place at the Sheraton International Hotel, 11810 Sunrise Valley Drive, Reston, VA. Please contact the individual in the "for further information" section to obtain specific building and conference room assignment. Inquiries regarding the Board meeting should be directed to the conference facility.

AGENDA:

—Welcome
—Administrative business
—Overview and discussion of the Draft European Information Technology Security Evaluation Criteria
—Review of board work items
—Overview of security of select federal computer system(s)
—Discussion of federal computer security issues
—Board's pending business and subcommittee reports
—Public participation

PUBLIC PARTICIPATION: The Board Agenda will include a period of time, not to exceed thirty mintues, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the Computer Systems Security and Privacy Advisory Board, National Computer Systems Laboratory, Building 225, Room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899. It should be appreciated if fifteen copies of written material could be submitted for distribution to the Board by August 29, 1990. Approximately fifteen seats will be available for the public, including three seats reserved for the media. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn McNulty, Associate Director for Computer Security, National Computer Systems Laboratory, National Institute of Standards and Technology, Building 225, Room B154, Gaithersburg, MD 20899, telephone: (301) 975–3240.

Dated: August 6, 1990

John W. Lyons,

Director.

[FR Doc. 90–18705 Filed 8–8–90; 8:45 am]

BILLING CODE 3510–CN–M

COMMISSION ON MINORITY BUSINESS DEVELOPMENT

[90-N-7]

Meeting and Hearing

AGENCY: Commission on Minority Business Development.

ACTION: Notice of meeting and public hearing.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting and public hearing of the Commission on Minority Business Development will be held on Thursday, August 16, 1990 and Friday, August 17, 1990 respectively in Denver, Colorado. Both meetings are open to the public. The August 16th meeting will convene at 9 a.m. at the Holiday Inn Denver I–70 East, Steamboat Room, Denver, CO.

The meeting agenda will include review of the minutes of the Commission's last meeting, consideration of old business and consideration of new business.

The August 17th public hearing will begin at 9 a.m. at the Holiday Inn Denver I–70 East Aspen Amphitheatre, Denver, CO 80203.

The public hearing is for the purpose of receiving testimony from public and private sector decision-makers and entrepreneurs, professional experts, corporate leaders and representatives of key interest groups and organizations concerned about minority business development and participation in Federal programs and contracting opportunities.

The Commission was established by Public Law 100–656, for purposes of reviewing and assessing Federal programs intended to promote minority business and making recommendations to the President and the Congress for such changes in laws or regulations as may be necessary to further the growth and development of minority businesses.

FOR FURTHER INFORMATION CONTACT: Susan Gonzales, Anita Irick or Arlene Pinkney at (202) 523–0030, Commission on Minority Business Development, 730 Jackson Place, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: Minutes of the meeting and hearing transcripts will be available for public inspection during regular working hours at 730 Jackson Place, NW., Washington, DC 20006 approximately 30 days following the meeting and hearing.

Dated: August 3, 1990.

Andre M. Carrington,

Executive Director.

[FR Doc. 90–18638 Filed 8–8–90; 8:45 am]

BILLING CODE 6820–PB–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Hungary

August 3, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 10, 1990.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–5810. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for carryover, swing, carryforward, shortfall used and recredit of unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 50265, published on December 5, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Dated: August 3, 1990.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 3, 1990.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive of November 29, 1989 from the Chairman, Committee for the Implementation of Textile Agreements. That directive establishes restraint limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in Hungary and exported during the twelve-month period which began on January 1, 1990 and extends through December 31, 1990.

Effective on August 10, 1990, you are directed to adjust the limits for the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and the Republic of Hungary:

Category	Adjusted 12-month limit [1]
300/301	1,478,004 kilograms.
313	12,890,348 square meters
410	946,757 square meters
433	9,086 dozen.
434	8,313 dozen.
435	15,723 dozen.
442	21,300 dozen.
443	90,602 numbers.
444	28,248 numbers.
445/446	46,664 dozen of which not more than 34,998 dozen shall be in Category 445 and not more than 34,998 dozen shall be in Category 446.
448	22,528 dozen.
604	886,802 kilograms.
645/646	112,372 dozen.
669–P [2]	693,806 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1989.
[2] Category 669–P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90–18597 Filed 8–8–90; 8:45 am]

BILLING CODE 3510–DR–M

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the United Mexican States

August 3, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 10, 1990.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535–9481. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 341/641 and sublimit for Categories 341–Y/641-Y are being increased by recredit of unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 51446, published on December 15, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Dated: August 3, 1990

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 3, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive of December 11, 1989 issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the United Mexican States and exported during the twelve-month period which began on January 1, 1990 and extends through December 31, 1990.

Effective on August 10, 1990, the directive of December 11, 1989 is amended to increase the limit and sublimit for the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and the United Mexican States:

Category	Adjusted 12 month limit [1]
341/641	806,310 dozen of which not more than 291,312 dozen shall be in Categories 341–Y/641-Y [2]

[1] The limits have not been adjusted to account for any imports exported after December 31, 1989.

[2] Category 341-Y: only HTS numbers 6204.22.3060, 6206.30.3010 and 6206.30.3030; Category 641-Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90–18596 Filed 8–8–90; 8:45 am]

BILLING CODE 3510-DZ-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Option Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity option contracts.

SUMMARY: The Chicago Board of Trade ("CBT" or "Exchange") has applied for designation as a contract market in (1) options on German government bond futures and (2) options on long-term French government bond futures. For each of the proposed futures option contracts, the CBt's application also contains a petition for an exemption from the volume requirement for the underlying futures contract specified in the Commission's rules. The Director of the Division of Economic Analysis ("Division") of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined the publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before September 10, 1990.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the CBT options on long-term French government bond futures contract or to the option on German government bond futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, at (202) 254–7227.

SUPPLEMENTAL INFORMATION: In addition to requesting comment on the terms and conditions of the proposed option contracts, the Division also is requesting comment of the merits of petitions filed by the CBT pursuant to § 33.11 of the Commission's rules. The petitions request exemptive relief from the trading volume tests set forth in the Commission's rules. In that regard, § 33.4(a)(5)(iii) of the Commission's rules requires, as a condition of designation for proposed options on futures contracts, that the Exchange demonstrate that:

> * * * the volume of trading in all contract months for futures delivery of the commodity for which the option designation is sought has averaged at least 3,000 contracts per week on such board of trade for the 12 months preceding the date of application for option contract market designation, or alternatively, that such futures contract market, based on its trading history, substantially meets this total volume requirement in less than the 12 months preceding the date of application * * *.

The Division notes that the CBT German government bond futures contract and the long-term French government bond futures contract which will underlie the proposed option contracts have not been designated by the Commission.[1] Therefore, the futures trading volume requirement has not been met for either of the two proposed option contracts.

As discussed in more detail in previous Federal Register notices (see, for example, 52 FR 41755, October 30, 1987), the Commission has stated that it

[1] The CBT applied to trade futures contracts on German government bonds and on long-term French government bonds in separate submissions dated June 21, 1990. These two proposed futures contracts are currently under review at the Commission.

believes that, at the minimum, a petition for exemption from the trading volume tests may be granted only if the underlying cash market for the commodity exhibits a high level of liquidity. Cash market liquidity would be evidenced by extensive and frequent trading activity, a large number of participants in the market, and tight bid/ask spreads. Further, the terms of the futures contract should ensure the opportunity for arbitrage and close alignment between the cash and futures markets. In combination, the liquidity of the underlying cash market and the opportunites for arbitrage are major factors in determining the extent to which a less liquid futures contract could be disrupted by the exercise of options and the alternatives available to those exercising the options. In addition, to enable position holders to evaluate accurately the value of their option positions in the absence of active trading in the underlying futures contract, the Commission stated its belief that there should exist an accurate and widely available price series that would be representative of values of the commodity underlying the futures.[2]

In requesting comment on the CBT's proposed option on German government bond futures and the option on long-term French government bond futures, the Division is seeking specific comment on whether it should grant the CBT's requests for exemptions from the requirements of § 33.4(a)(5)(iii) for the proposed contracts. Commenters are requested to address whether, if the petitions were granted, additional surveillance activities and expiration reviews, particularly at the outset of trading, should be implemented by the CBT for either or both of the proposed contracts.

Copies of the terms and conditions of the proposed contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or argument on the terms and conditions of the proposed contracts or the related petitions, or with respect to other materials submitted by the CBT in support of the applications, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on July 31, 1990.

Steven Manaster,

Director.

[FR Doc. 90–18700 Filed 8–8–90; 8:45 am]

BILLING CODE 6351-01-M

[2] The Division notes that, in those cases where the underlying futures contract fails to develop a sufficient level of trading volume, the option on the futures contract would become subject to the delisting criteria set forth in § 5.4 of the Commission's rules. Specifically, if the volume in the underlying futures contract falls below an average weekly volume of 1,000 contracts for all months listed for the six-month period following designation of the option contract, no new option contract months may be listed until the volume in the underlying futures contract rises above an average of 2,000 contracts per week for all trading months listed for a period of three consecutive months.

Chicago Board of Trade Proposed Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contracts.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has applied for designation as a contract market in three year interest rate swap futures and five year interest rate swap futures. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before September 10, 1990.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581.

Reference should be made to the CBT five year interest rate swap futures contract or to the CBT five year interest rate swap futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, at (202) 254–7227.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions of the proposed contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (U.S.C. 522) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or argument on the terms and conditions of the proposed contracts, or with respect to other materials submitted by the CBT in support of the applications, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC on July 31, 1990.

Steven Manaster,

Director.

[FR Doc. 90–18701 Filed 8–8–90; 8:45 am]

BILLING CODE 6351-01-M

Chicago Board of Trade Proposed Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contracts.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has applied for designation as a contract market in Long-Term French Government Bond futures and in German Government Bond futures. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before September 10, 1990.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581.

Reference should be made to the CBT Long-Term French Government Bond or the German Government Bond futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, at (202) 254–7227.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions of the proposed contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or argument on the terms and conditions of the proposed contracts, or with respect to other materials submitted by the CBT in support of the applications, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC on July 31, 1990.

Steven Manaster,

Director.

[FR Doc. 90–18702 Filed 8–8–90; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve a reduction in a currently approved information collection concerning Government Furnished Property Requirements.

ADDRESSES: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, OMB, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Jeritta Parnell, Office of Federal Acquisition Policy, (202) 501–4082 or Mr. Owen Green, Defense Acquisition Regulatory Council, (703) 697–7268.

SUPPLEMENTARY INFORMATION:

a. *Purpose*: FAR 45.307–3 and the clause at 52.245–18, Special Test Equipment, contain policy and contractual language on contractors acquiring or fabricating special test equipment for the Government when the exact identification of the special test equipment to be acquired or fabricated is unknown. The contractor may either acquire or fabricate special test equipment at Government expense when the equipment is not otherwise itemized in the contract. When the contractor intends to acquire or fabricate the special test equipment, he is required to submit a notice of intent to the contracting officer at least 30 days in advance. The notice shall include an estimated cost of all items and components of the equipment of which each item or component is less than $5,000, therefore reducing the reporting requirement of the contractor.

b. *Annual reporting burden*: The annual reporting burden is estimated as follows: Respondents, *9,750*; responses per respondent, *2*; total annual responses, *19,500*; ours per response, 1; and total response burden hours, *19,500*.

c. *Annual recordkeeping burden*: The annual recordkeeping burden is estimated as follows: Recordkeepers, *10,000*; hour per recordkeeper, *40*; and total recordkeeping burden hours, *400,000*.

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies from General Services Administration, FAR Secretariat (VRS), Room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0075, Government Furnished Property Requirements.

Dated: August 1, 1990.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 90–18653 Filed 8–8–90; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board Advisory Group for the Air Force Communications Command (AFCC) Standard Systems Center will meet on September 12, 1990, from 8 a.m. to 5 p.m., at the Standard Systems Center Headquarters, Building 888, Gunter AFB, Alabama.

The purpose of this meeting is to review the activities of the Software Center of Excellence that AFCC has established at the Standard Systems Center.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraph (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR. Doc. 90–18643 Filed 8–8–90; 8:45 am]

BILLING CODE 3910–01–M

Department of the Navy

Finding of No Significant Impact for the Closure of Naval Station Brooklyn, NY and Realignment of Naval Station Staten Island, NY

Pursuant to the Council on Environmental Quality regulations (40 CFR parts 1500–1508) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of the Navy gives notice that an environmental assessment (EA) has been prepared and an environmental impact statement is not being prepared for the proposed base closure of Naval Station (NAVSTA) Brooklyn, and realignment of NAVSTA New York at Staten, Island, New York.

The proposed action is the closure of operations at NAVSTA Brooklyn and subsequent realignment of nine tenant activities to NAVSTA Staten Island or other locations in the New York City metropolitan area. Tenants affected by closure of NAVSTA Brooklyn include Consolidated Civilian Personnel Office; Resident Officer in Charge of Construction; Personnel Support Activity Detachment; Naval Dental Branch Clinic; Naval Hospital Branch Clinic; Naval Investigative Service Resident Agent; Naval Motion Picture Service (NMPS); Supervisor of Shipbuilding, Conversion, and Repair (SUPSHIPS); and Naval Resale and Services Support Office, Resale Activity. The proposed action does not include the subsequent reutilization of property vacated at NAVSTA Brooklyn. Disposal and reutilization of the excessed property will be discussed in future environmental documentation when details of those actions are defined.

Congress directed the Navy to close NAVSTA Brooklyn and realign NAVSTA Staten Island based upon recommendations made by the Secretary of Defense Commission on Base Closures and Realignments, pursuant to the Base Realignment and Closure Act of 1988 (Pub. L. 100–526). Congress exempted closure and realignment decisions associated with Pub. L. 100–526 from the provisions of NEPA. The provisions of NEPA do apply, however, to implementation of closure and realignment actions, except that the No Action alternative need not be addressed.

Though all activities at NAVSTA Brooklyn were recommended for relocation to NAVSTA Staten Island, space limitations at NAVSTA Staten Island preclude some tenant activities from moving to the Staten Island facility. It is important that NMPS remain in the Queens/Brooklyn area because of access to film distribution services provided there; therefore, NMPS will lease existing government-owned or commercial space. Additionally, SUPSHIPS, the largest tenant activity which employs 25 percent of the civilians at NAVSTA Brooklyn, will lease commercial space near Stapleton, or other suitable commercial space in New York City metropolitan region due to the lack of available space at NAVSTA Staten Island.

NAVSTA Staten Island consists of the Stapleton Waterfront Site and the former Fort Wadsworth site. A new pier, maintenance and supply facilities, and a power plant have been constructed at the Stapleton waterfront site. The former Fort Wadsworth site is approximately one mile from the Stapleton site and includes administrative and personnel support facilities for naval personnel assigned to homeported ships or shore activities. Personnel affected by the relocation of NAVSTA Brooklyn include 152 military personnel and 326 civilians.

Relocation of NAVSTA Brooklyn functions would require new or expanded facilities including bachelor enlisted quarters, storage and public works facilities, exchange, recreational and administrative facilities. Although the proposed actions are technically relocating actions resulting from NAVSTA base closure and realignment, each type of project listed above was addressed in the environmental documentation for Surface Action Group Homeporting, Stapleton-Fort Wadsworth Complex, Staten Island, New York.

Consistent with the Base Realignment and Closure Act of 1988, alternatives to the proposed action were limited to ways to implement the closure and realignment and included relocation of facilities to other Department of Defense (DOD) facilities, to other government-owned (non-DOD) space, or to other commercially available space. Limited Department of Defense activities currently exist in the New York metropolitan region. Some facilities and/or land exists at the Military Ocean Terminal in Bayonne, NJ, and at Floyd Bennett Field on Long Island, NY, but these activities were discounted because neither could provide the necessary office space requirements for NAVSTA Brooklyn.

While some tenant activities currently at NAVSTA Brooklyn could relocate to other government-owned space, available space under the control of the General Services Administration (GSA) is inadequate to satisfy all the relocation requirements from NAVSTA Brooklyn. Commercially available space in the New York metropolitan area is limited and expensive. While some tenant activities may relocate to commercial space, relocation of all the NAVSTA Brooklyn space requirements to commercial space is not cost effective.

Impacts associated with the relocation of NAVSTA Brooklyn facilities are not expected to be significant. The closure of NAVSTA Brooklyn will not significantly affect physical or biological resources in the area. New construction at NAVSTA Staten Island to provide administrative and personnel support facilities will not impact federally protected wetlands or endangered species or their habitat.

New construction associated with the relocation will not affect archeological, cultural, or historic resources listed or determined eligible for listing on the National Register of Historic Places. Cultural resources at NAVSTA Brooklyn, the Naval Hospital and the Surgeon's House, will be protected in accordance with Protection of Historic Properties regulations (36 CFR part 800) until property disposal occurs.

Construction activities will result in temporary impacts to surface water hydrology, increased noise levels, and decreases in air quality. Mitigation measures, including the use of straw bale and filter fabric barriers, diversion structures, mulching and seeding, will be employed to control surface water runoff and minimize ground disturbing impacts.

Closure activities including removing underground storage tanks will be conducted in accordance with the Resource Conservation and Recovery Act. Additional surveying for hazardous waste and asbestos as well as necessary removal and isolation will be conducted prior to transfer or sale of the property as required by section 120(h) of the Superfund Amendments and Reauthorization Act. Energized PCB transformers, capacitors, or other electrical equipment are clearly labelled and will be inspected until excessing actions are completed. Any in-use PCB equipment may be transferred to a new owner provided the equipment satisfies federal requirements. All items containing 50 parts per million or more PCBs will be removed and disposed of in accordance will the Toxic Substances Control Act. None of these activities would significantly affect the environment.

Relocation to NAVSTA Staten Island would result in a slight increase in area population; however, when compared to the existing Staten Island population,

this increase is insignificant. Similar slight increases are expected in the amount of traffic traveling to and from the Stapleton waterfront area, the administrative/personnel support area at (former) Fort Wadsworth and off base family housing areas. The relocated civilian workforce is expected to commute to the NAVSTA Staten Island facility by automobile or public transportation. The resulting slight increase in Staten Island population is not expected to significantly impact community services.

A total of 12 housing units currently in use at NAVSTA Brooklyn will be lost as a result of the closure action. New family housing has been constructed in support of the NAVSTA Staten Island requirements. Significant impacts on the available housing market are not expected. Navy family housing located on Long Island, NY is not affected by the closure of NAVSTA Brooklyn.

No significant impacts to the area school systems are expected as a result of the relocation action. Current military staffing at NAVSTA Brooklyn is such that no school-age children would relocated to NAVSTA Staten Island. Future staffing of the relocated functions is not expected to significantly affect area schools.

The closure of NAVSTA Brooklyn will not significantly impact the Brooklyn community. The proposed closure of NAVSTA Brooklyn and realignment of NAVSTA Staten Staten Island will result in the loss of some employment in the Borough of Brooklyn. However, this loss of employment will be due primarily to the personal choice of employees not to transfer to Staten Island because of the inconvenience of a longer commuting distance, lack of direct public transportation, and the additional transportation costs, such as the toll on the Verrazano Bridge. However, these transfers/reductions are small compared to the existing level of employment in the Borough of Brooklyn. The number of civilian employees at NAVSTA Staten Island, according to projected fiscal year 1993 base loading, will increase to 516. Approximately 200 civilian employees from NAVSTA Brooklyn (those not working for NMPS or SUPSHIPS) will fill positions that were already identified under homeporting requirements for Staten Island.

Closure of NAVSTA Brooklyn and consolidation of naval station functions at NAVSTA Staten Island is expected to produce annual savings of $4.2 million.

Based on information gathered during the preparation of the EA, the Navy finds that the closure of NAVSTA Brooklyn and the relocation of operations to NAVSTA Staten Island and lease space in the metropolitan area will not significantly impact the environment.

The EA prepared by the Navy addressing this action is on file and may be reviewed by interested parties at the place of origin: Commanding Officer, Northern Division, Naval Facilities Engineering Command; Bldg. 77L, Naval Base, Philadelphia, PA 19112–5064. (Attn: Mr. Robert Ostermueller, Code 202.2, telephone 215–897–6263). A limited number of copies are available to fill single copy requests.

A final decision by the Navy on this Finding of No Significant Impact will occur in 30 days from the **Federal Register** publication date. The public is invited to submit comments on the proposed action to the address given above prior to the end of this period.

Dated: July 27, 1990.

Jane M. Virga,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 90–18581 Filed 8–8–90; 8:45 am]

BILLING CODE 3810–AE–M

Mathews Machine Works; Intent To Grant Exclusive Patent License

AGENCY: Department of the Navy.

ACTION: Intent of grant exclusive patent license; Mathews Machine Works.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Mathews Machine Works a revocable, nonassignable, exclusive license to practice the Government-owned invention described in U.S. Patent Application Serial No. 507,264. "Sheave Assembly," filed April 2, 1990.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of the Chief of Naval Research (Code OOCCIP), Arlington, Virginia 22217–5000.

DATES: August 9, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research (Code OOCCIP), 800 N. Quincy Street, Arlington, Virginia 22217–5000. telephone (202) 696–4001.

Dated: July 27, 1990.

Jane M. Virga,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 90–18580 Filed 8–8–90; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent To Award Cooperative Agreement to the Geological Survey of Wyoming

AGENCY: Department of Energy.

ACTION: Notice of intent to make a noncompetitive financial assistance award.

SUMMARY: DOE announces that, pursuant to 10 CFR 600.7, it is making a noncompetitive financial assistance award under Cooperative Agreement Number DE–FC01–90E121952 to the Geological Survey of Wyoming (GSW) to assist in the revision of the Energy Information Administration's (EIA) Demonstrated Reserve Base (DRB) of coal for the State of Wyoming with new quantity and quality data.

SCOPE: This cooperative agreement will aid in providing funding in the amount of $74,500 (DOE share: $60,000, CSW share: $14,500) for the development of data on the minable reserve base and recoverable coal in Wyoming by major coal rank class, allocated to specified ranges of sulfur and heat content. The data development will include detailed analysis of coal bed geology, resource quantity and coal quality characteristics. The reported output will include state totals of the minable reserve base, recoverable coal and estimated economic resources.

ELIGIBILITY: Eligibility of this award is being limited to the GSW, based on their responsibility of mapping and estimating the coal resources for the State of Wyoming. They are the sole source for over 15,000 new analyses including sulfur contents and heat values. This data will enable GSW to revise the coal reserves by quality and quantity for the EIA. In accordance with 10 CFR 600.7(b)(2)(i) (B), (C) and (D), it has been determined that (1) activities would be conducted by GSW using its own resources; however, DOE support of the activities would enhance the public benefits to be derived and DOE knows of no other entity which is conducting or planning to conduct such activities; (2) GSW is a unit of government and the activities to be supported are related to performance of a governmental function within the subject jurisdiction, thereby precluding DOE provision of support to another entity; and (3) GSW has exclusive domestic capability to perform the activities successfully, based upon technical expertise.

The term of this cooperative agreement shall be for twelve (12) months from the effective date of award

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, ATTN: Mr. Steve Witt, PR–542, 1000 Independence Avenue SW. Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 90–18668 Filed 8–8–90; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance Award Intent To Award Grant to Giles M. Whitten

AGENCY: Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.14, it is making a financial assistance award under Grant Number DE–FG01–90CE15430 to Giles M. Whitten to modify and test three mud-pumps which are equipped with the inventor's device to prevent wear and prolong the life of the pump.

SCOPE: The grant will provide funding to Giles M. Whitten for the estimated cost of $50,000 for the modification of three mud-pumps and testing the results in cooperation with a drilling contractor to determine longevity and reliability. The invention is expected to prolong the life of a mud-pump and reduce maintenance costs. Energy savings would result from reduced downtime for the mud-pump and resultant reduced drilling time for an average well. Reduced drilling costs would make it cost effective to recover marginal deposits of oil, thus enhancing domestic oil productivity.

ELIGIBILITY: Based on acceptance of an unsolicited application, eligibility for this award is limited to Giles M. Whitten, an individual who has the necessary background and contacts to develop the invention if his technology proves successful. In accordance with 10 CFR 600.14(e)(1), it has been determined that this project represents a unique idea that is not eligible for financial assistance under a recent, current, or planned solicitation. The funding program, Energy-Related Inventions Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the legislation directs ERIP to provide support for worthy ideas submitted by the public. The proposed project and technology have a strong potential of adding to the national energy resources.

The term of the grant shall be eighteen months from the effective date of the award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, ATTN: Rose Mason, PR–542, 1000 Independence Avenue SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 90–18671 Filed 8–8–90; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

Obtaining Official Service Lists

August 3, 1990.

Effective August 6, 1990, the Commission will make available to the public Official Service Lists on a personal computer (PC) diskette in Word Perfect 5.0 format. This information will be downloaded from the Federal Energy Regulatory Commission (FERC) computer. The service will be offered by the Public Reference and Files Branch in Room 2208, 941 North Capitol Street, NE, Washington, DC 20426. The service will be offered initially from 8:30 to 10:00 and 12:30 to 2:00 each workday.

While the downloading of Service Lists will be free, PC diskettes will be available for purchase through LaDorn Systems Incorporated. Only these diskettes will be used for downloading of the Service List. The cost of the diskettes will be $3.00 for a low density diskette and $4.00 for a high density diskette. All diskettes will be formatted by LaDorn.

Additionally, mail-in and telephone orders will be accepted for service lists through LaDorn Systems Incorporated. The address for mail-in orders is LaDorn Systems Incorporated, Room 3308, 941 North Capitol Street, NE, Washington, DC, 20426. Telephone orders will be accepted on 202–898–1151. There will be a shipping and handling charge for this service.

For additional information, please contact Ms. Betty Knick, Assistant Chief, Public Reference and Files Branch, at 202–208–1371.

Lois D. Cashell,

Secretary.

[FR Doc. 90–18628 Filed 8–8–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ90–4–20–000; TM90–12–20–000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

August 3, 1990

Take notice that Algonquin Gas Transmission Company ("Algonquin") on August 1, 1990, tendered for filing proposed changes in its FERC Gas Trariff, Second Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed to be Effective August 1, 1990

21 Rev Sheet No. 214
2 Rev Sheet No. 220

Proposed to be Effective September 1, 1990

43 Rev Sheet No. 201
5 Rev Sheet No. 201A
44 Rev Sheet No. 203
40 Rev Sheet No. 204
37 Rev Sheet No. 205

Algonquin states that pursuant to section 9 and 4 of Rate Schedules SS–III and ATAP, respectively, it is filing Sheet Nos. 214 and 220 to track changes in the rates for the services underlying its Rate Schedules SS–III and ATAP made by its pipeline supplier Texas Eastern Transmission Corporation ("Texas Eastern") in its filing of July 17, 1990 in Docket No. TQ90–3–17–001.

Algonquin also states that pursuant to section 17 of the General Terms and Conditions of its FERC Gas Tariff Second Revised Volume No. 1, it is filing the Sheet Nos. 201 through 205 to update its latest estimate of purchased gas and standby service costs based upon changes by its pipeline suppliers, in the rates of the services underlying Algonquin's Rate Schedules F–1, F–2, F–3, F–4, WS–1, I–1 and E–1.

Algonquin further states that the effect of the change in rates under Rate Schedule SS–III is to increase the Non-FDDQ Withdrawal rate by 1.58¢ to 24.8¢ per MMBtu. Under Rate Schedule ATAP the effect is to increase the Firm Commodity Maximum by 2.46¢ to 58.72¢ per MMBtu. Under Rate Schedules F–1, F–2, F–3, F–4 and WS–1, the effect of the change in rates is to decrease the demand charges by 8.1¢ to $14.066 per MMBtu and to increase the commodity charges by 20.32¢ to $3.0114 per MMBtu from those rates contained in Algonquin's Interim PGA filing of June 11, 1990 in Docket No. TF90—20–000. Furthermore the rate under Rate Schedule I–1 has increased by 20.32¢ to $3.0164 per MMBtu, while Rate Schedule WS–1 excess commodity has increased by 18.7¢ to $5.8246 per MMBtu and Rate Schedule E–1 has increased by 20.06¢ to $3.4739 per MMBtu.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 10, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-18621 Filed 8-8-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-12-22-000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 3, 1990.

Take notice that CNG Transmission Corporation ("CNG"), on July 19, 1990, pursuant to Section 4 of the Natural Gas Act, the Stipulation and Agreement approved by the Commission on October 6, 1989, in Docket Nos. RP88-217, *et al.*, and section 12.9 of the General Terms and Conditions of DNG's FERC Gas Tariff, 1 filed six (6) copies of the following revised tariff sheet to its FERC Gas Tariff, First Revised Volume No. 1:

First Revised Sheet No. 51

The tariff sheet is proposed to become effective on August 1, 1990.

The purpose of this filing is to flow through changes in take-or-pay costs allocated to CNG by Texas Eastern Transmission Corporation.

CNG states that copies of this filing were served upon CNG's customers as well as interested parties.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR 285.214 and 285.211. All motions or protests should be filed on or before August 10, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-18624 Filed 8-8-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-153-000]

El Paso Natural Gas Co.; Tariff Filing

August 3, 1990.

Take notice that on August 1, 1990, El Paso Natural Gas Company ("El Paso") filed, pursuant to part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations under the Natural Gas Act and in compliance with the order issued March 16, 1990 at Docket No. CP88-332-003, certain tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1.

El Paso states that the tendered tariff sheets, when accepted by the Commission and permitted to become effective, will serve to (1) Provide that title transfer of interruptible sales gas shall occur at mainline receipt points and (2) provide for the elimination of the minimum rate under Rate Schedule IS-1.

El Paso states that by Order Granting Rehearing issued March 16, 1990 at Docket No. CP88-332-003, the Commission directed El Paso to file revised tariff sheets to provide that title transfer of interruptible sales gas occurs at the mainline receipt points as proposed in El Paso's application at Docket No. CP88-434-001 regarding El Paso's proposed Gas Inventory Charge ("GIC"). Although ordering paragraph (B) of said order directed El Paso to file such tariff sheets within thirty (30) days of a final order to be issued in the proceeding at Docket No. CP88-332-000, El Paso is filing such tariff sheets now for the reasons discussed in the filing and to expedite implementation of previously approved procedures. El Paso stated that it will subsequently make any required filings in accordance with a final order issued in this proceeding.

El Paso further states that consistent with the commencement of mainline receipt point sales and the unbundling of interruptible sales and transportation services, it is proposing to eliminate the minimum rate under Rate Schedule IS-1. Elimination of the minimum rate is necessary to allow El Paso to compete on a comparable basis with other sellers of gas on the spot market. Without this change, the minimum rate could effectively prevent El Paso from marketing its IS-1 gas in competition with other spot market gas sales and thus could frustrate its efforts to minimize take-or-pay liability and reduce the likelihood of shutting in non-swing gas. El Paso does not propose to change the minimum rate except to the extent such rate must be reduced to eliminate the mainline transportation component (which will still be charged and collected as a mainline transportation rate). El Paso requested permission to charge a rate equal to or less than the resulting maximum rate.

El Paso also states that by the instant filing, it is proposing to unbundle its IS-1 sales and transportation services as directed in the March 16, 1990 order and in the same fashion as Transwestern Pipeline Company at Docket Nos. RP90-4-001 and RP89-48-006. In Opinion No. 336, the Commission determined that exercise market power to the disadvantage of its customers. Moreover, the terms of El Paso's interruptible sales service certificate assure that there is no possibility of impermissible cross-subsidization, since for each IS-1 sale, El Paso credits its Account 191 with the pipeline's actual WACOG for the volumes sold plus an allowance for out-of-period adjustments, regardless of the price at which the interruptible sale was made. Therefore, there is sufficient assurance that the IS-1 sales will be implemented in a fair and nondiscriminatory way without provision for minimum rates.

El Paso requested that the tendered tariff sheet be accepted by the Commission and permitted to become effective on September 1, 1990, which is thirty (30) days after the date of filing.

El Paso states that copies of the filing were served upon all interstate pipeline system sales customers of El Paso and all interested State regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 10, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR. Doc. 90–18625 Filed 8–8–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90–3–53–000]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

August 3, 1990.

Take notice that K N Energy, Inc. ("K N") on August 1, 1990 tendered for filing proposed changes in its FERC Gas Tariff to adjust the rates charged to its jurisdictional customers pursuant to the Purchased Gas Adjustment provision (section 19) of the General Terms and Conditions of K N's FERC Gas Tariff, Original Volume No. 1–B to reflect changes in the Current Adjustment. The filing proposes increases (decreases) to K N's rates per Mcf as set forth in the table below:

	Zone 1	Zone 2
DC, SF and WPS Commodity	($0.0008)	($0.0008)
D1 Demand	(0.0037)	(0.0054)
D2 Demand	(0.0048)	(0.0055)
WPS Demand	(0.0074)	(0.0108)
IOR Commodity	(0.0093)	(0.0117)

K N states that the filing reflects revisions to its base tariff rates to reflect projected weighted average gas costs for the quarter ending November 30, 1990. The proposed effective date for the rate changes is September 1, 1990.

K N states that copies of the filing were served upon K N jurisdictional customers and interested state bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 285.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 10, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party just file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 90–18626 Filed 8–8–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ90–4–25–000; TM90–6–25–000]

Mississippi River Transmission Corp.; Rate Change Filing

Ausugt 3, 1990.

Take notice that on August 1, 1990 Mississippi River Transmission Corporation (MRT) tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 to be effective September 1, 1990:

Forty-Fifth Revised Sheet No. 4
Fourth Revised Sheet No. 4.1
Fourth Revised Sheet No. 4.2
Eighteenth Revised Sheet No. 4A
Ninth Revised Sheet No. 4A.1
Ninth Revised Sheet No. 4A.2
Sixth Revised Sheet No. 4A.3
Sixth Revised Sheet No. 4A.4
Fifth Revised Sheet No. 4A.5
First Revised Sheet No. 4A.6
Original Sheet No. 4A.7
Eleventh Revised Sheet No. 73
Fifteenth Revised Sheet No. 74

MRT states that the instant filing reflects its quarterly purchased gas cost adjustment (PGA), submitted pursuant to § 154.308 of the Commission's Regulations and paragraph 17.2 of MRT's FERC Gas Tariff, and changes in fixed take-or-pay charges incurred from pipeline suppliers. MRT states that the impact of the instant filing on its Rate Schedule CD–1 rates is a decrease of $.003 per MMBtu in the demand charge, and an increase of 11.64 cents per MMBtu in the commodity charge. The single part rate under Rate Schedule SGS–1 reflects an increase of 11.61 cents per MMBtu.

MRT states that a copy of the revised tariff sheets is being mailed to each of MRT's jurisdictional sales customers and to the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 and 385.214 of the Commission's Rules Practice Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 10, 1990. Protests will be considered by the Commision in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–18622 Filed 8–8–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TM90–6–55–000, TQ90–4–55–000]

Questar Pipeline Co., Rate Change

August 3, 1990.

Take notice that on August 1, 1990, Questar Pipeline Company tendered for filing and accpetance certain revised tariff sheets to its FERC Gas Tariff as follows:

ORIGINAL VOLUME NO. 1

Tariff sheet	Proposed effective date
Sixth Revised Sheet No. 12.	August 1, 1990.
Seventh Revised Sheet No. 12.	September 1, 1990.

Questar Pipeline states that the purpose of this filing is to (1) adjust the pipeline supplier charge to recover revised buyout and buydown costs charged to Questar Pipeline by its former pipeline supplier, Northwest Pipeline Corporation effective August 1, 1990; and (2) adjust the purchased gas cost under its sale-for-resale Rate Schedule CD–1 effective September 1, 1990.

Questar Pipeline states that Sixth Revised Sheet No. 12 reflects a change to its pipeline supplier charges of $9,186 from $188,566 to $197,752. The new charge has been allocated between Questar Pipeline's Rate Schedule CD–1 zones on the basis of MDQ.

Questar Pipeline further states that Seventh Revised Sheet No. 12 shows a commodity base cost of purchased gas as adjusted of $2.72005/Dth which is $0.03029/Dth lower than the currently effective rate of $2.75034/Dth. The demand base cost of purchased gas as adjusted decreased $0.00060/Dth from $0.00601/Dth to $0.00541/Dth.

Questar Pipeline states that it has provided a copy of the filing to Mountain Fuel Supply Company and interested state public service commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules of Practice and Procedure (18 C.F.R. 385.211 and 385.214). All such protests

should be filed on or before August 10, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-18623 Filed 8-8-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-158-000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

August 3, 1990.

Take notice that Trunkline Gas Company (Trunkline) on August 1, 1990 tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1:

Original Sheet No. 3-A.11
Original Sheet No. 3-A.12
Fifth Revised Sheet No. 21-P

Trunkline proposes an effective date of September 1, 1990.

Trunkline states that the foregoing tariff sheets are being filed pursuant to Order No. 500 to recover additional take-or-pay settlement and contract reformation costs. Trunkline further states that these costs sought to be recovered are distinct from those costs being recovered in the filings in Docket Nos. RP88-239-000, RP89-11-000, and RP89-129-000 and reflect those contracts which were in litigation at March 31, 1989, as Trunkline previously informed the Commission in its supplemental filing in Docket No. RP89-129-000 dated May 26, 1989.

Trunkline further states that no change in the allocation methodology proposed in Docket Nos. RP88-239-000, RP89-11-000, and RP89-129-000 is contained in this filing.

Trunkline states that copies of the filing were served upon Trunkline's jurisdictional customers, interested state commissions, and the parties in Docket No. RP89-160-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protest should be filed on or before August 10, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person willing to become a party must file a motion to intervene. Copies of Trunkline's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-18627 Filed 8-8-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

[Case No. RF-006]

Energy Conservation Program for Consumer Products; Decision and Order Denying a Waiver from Test Procedures for Refrigerators, Refrigerator-Freezers, and Freezers to General Electric Appliances

AGENCY: Department of Energy.

ACTION: Notice of decision and order.

SUMMARY: Notice is given of the Decision and Order (Case No. RF-006) denying a Petition for Waiver from General Electric Appliances (GE) of Louisville, Kentucky, requesting relief from the existing Department of Energy (DOE) test procedure for refrigerator-freezers.

FOR FURTHER INFORMATION CONTACT:
Douglass S. Abramson, U.S. Department of Energy, Office of Conservation and Renewable Energy, Forrestal Building, Mail Station, CE-43, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-9127
Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station, GC-12, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-9507

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. General Electric Appliances (GE) has been denied a waiver for its models TFX27FK and TFX24FK refrigerator-freezers. The models cited in the Petition for Waiver each are constructed with an additional door for the refrigerator section of the refrigerator-freezer. This design is termed the "Refreshment Center" by GE. This refrigerator-freezer, in addition to providing through-the-door ice service, also provides through-the-door beverage service by way of the second refrigerator (fresh food compartment) door. GE has requested that DOE grant a waiver which would allow GE to reduce the estimated annual energy consumption by 50 KWH because of anticipated energy savings from reduced door openings. DOE, after reviewing the petition, concludes that if there is any difference in the unit's energy consumption due to the "Refreshment Center", it is within the unit's margin of error in the test procedure. Therefore, based on available information, DOE concludes that the test procedure does not provide results that result in materially inaccurate comparative data. Accordingly, DOE is denying GE's Petition for Waiver.

Issued in Washington, DC, August 1, 1990.

B. Reid Detchon, *Principal Deputy Assistant Secretary, Conservation and Renewable Energy.*

Decision and Order

In the Matter of: General Electric Appliances (Case No. RF-006)

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94-163, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12, and the National Appliance Energy Conservation Amendment of 1988 (NAECA 1988), Public Law 100-357, and requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including refrigerators, refrigerator-freezers, and freezers. The intent of the test procedure is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

DOE has amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. 45 FR 64108. DOE further amended its appliance test procedue waiver process to allow the Assistant Secretary for Conservation and Renewable Energy to grant an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test

procedures pending a decision and order on the petition for waiver. 51 FR 42823, November 26, 1986. The waiver process allows the Assistant Secretary for Conservation and Renewable Energy to waiver temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of a waiver.

General Electric Appliances, (GE) filed both an "Application for Interim Waiver" and a "Petition for Waiver," each dated August 14, 1989. DOE published in the Federal Register its denial of the interim waiver request and notice of GE's Petition for Waiver, soliciting comments, data and information respecting the petition. 55 FR 5653, February 16, 1990. The comment period ended on March 19, 1990.

DOE received comments concerning both the "Petition for Waiver" and the "Interim Waiver." DOE consulted with the National Institute of Standards and Technology (NIST) and the Federal Trade Commission (FTC) concerning the GE petition. NIST submitted an evaluation of the test procedure and the comments received in a letter report to DOE dated, June 4, 1990. The FTC had no comments on the propriety of GE's Petition.

Assertions and Determinations

GE's Petition for Waiver from the DOE test procedure for refrigerator-freezers requests an energy credit be authorized to adjust the energy consumption of its TFX27FK and TFX24FK model refrigerator-freezers because they include an additional through-the-door feature called the "Refreshment Center." The Refreshment Center, in addition to providing ice and cold water from the freezer door, provides access to beverages such as milk, soda, or juice by way of an additional door in the refrigerator (fresh food compartment) door.

GE has tested and rated the TFX27FK and TFX24FK model refrigerator-freezers in accordance with the existing DOE refrigerator-freezer test procedures. GE claims that the test procedure does not give a true representation of the energy consumption or annual operating cost since there is no credit for reduced, regular refrigerator door openings.

GE claims that the TFX27FK and TFX24FK model refrigerator-freezers use less energy than measured by the existing test procedure because the Refreshment Center feature reduces the amount of moist ambient air admitted to the unit during door-openings. GE admits that there is an increase in heat transfer through the Refreshment Center door due to the additional door seal area and reduced door insulation. However, GE claims that this increase in heat load is more than offset by the energy saved by the reduced fresh food door openings. GE submitted survey data which it uses to project the number of refrigerator door-openings for the average American household refrigerator-freezer. Using this data GE asserts that the Refreshment Center door will replace 10 of the 33 fresh-food door openings per day in units so equipped, saving a total of 50 kilowatt hours (KWH) per year. GE claims that the existing test procedure will thus overstate the TFX27FK and TFX24FK refrigerator-freezers' true energy consumption by 50 kilowatt hours per year (KWH/YR). Therefore, GE requested that the annual energy consumption of its TFX27FK and TFX24FK refrigerator-freezers determined by the current DOE test procedure be reduced by applying a credit of 50 KWH/YR for reduced door-openings.

The credit proposed by GE is based on the difference in heat leakage into the refrigerator section when operated, at 90°F and at 70°F. GE assumes that the heat gain between 90°F and 70°F results from the refrigerator section door-opening versus refrigerator door and refreshment center door-opening at 70°F. In its calculation, GE applies the total load differential as the load from door-openings.

DOE received one comment on GE's Petition for Waiver. Whirlpool Corporation (Whirlpool), commented that the GE data and information provided in the petition on door-openings was not necessarily representative of the actual usage pattern that might be revealed on a larger sampling. (Whirlpool, No. 1 at 1). Whirlpool further disagreed with the application of the total heat load between 70°F and 90°F to the load associated with refrigerator door openings. Whirlpool believes that food-loading should also be considered. Finally, Whirlpool commented that the possible savings would be less than half of that claimed by GE.

DOE had NIST review the GE petition and as a result NIST concluded that it was reasonable for GE to use the DOE test procedure for its models TFX27FK and TFX24FK refrigerator-freezers to determine the annual energy consumption. NIST stated that the GE provided test and performance data on door-openings supported a 3.5 percent credit if the entire load from all sources was incorrectly attributed to the fresh food door openings. NIST agreed with Whirlpool's comment that the possible savings would be less than half of that claimed by GE. NIST also states that the 1 to 2 percent improvement would fall within the margin of error experienced in the test procedure.

Based on its findings, NIST recommended that the waiver not be granted.

Based on a review of the petition, the Whirlpool comment, and the NIST evaluation, DOE believes that the GE models TFX27FK, and TFX24FK with Refreshment Center features can be tested in accordance with the DOE test procedure, and that the available evidence does not demonstrate that the test procedure provides results that are unrepresentative of the units' true energy consumption so as to provide materially inaccurate comparative data. Rather, DOE concludes, based on the NIST evaluation, that if there is any difference in the unit's energy use it is within the margin of error in the test procedure.

Decision

Based on the information provided by GE, the NIST analysis and the Department's review, DOE is denying GE's request for the use of an energy credit to determine the annual operating costs for its model TFX27FK and TFX24FK refrigerator-freezers. It is, therefore, ordered that:

(1) The "Petition for Waiver" filed by GE (RF-006) is hereby denied.

(2) This denial does not preclude GE from submitting new or additional data and information which demonstrates that use of an energy credit is appropriate for its Refreshment Center models TFX27FK and TFX24FK.

(3) This decision is effective immediately upon receipt by General Electric Appliances (Case No. RF-006).

Issued in Washington, DC, August 1, 1990.

B. Reid Detchon,

Principal Deputy Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 90-18670 Filed 8-8-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Office of Pesticides and Toxic Substances

[OPTS-59285A; FRL 3795-8]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME-90-15. The test marketing conditions are described below.

EFFECTIVE DATES: August 1, 1990.

FOR FURTHER INFORMATION CONTACT: Darlene Jones, New Chemicals Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M St. SW., Washington, DC 20460, (202) 382-2279.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME-90-15. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-90-15. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME-90-15

Date of receipt: June 21, 1990.

Notice of receipt: July 16, 1990 (55 FR 28935).

Applicant: Westvaco.

Chemical: Resin acids and Rosin acids, tall oil, esters with triethylene glycol.

Use: Tackifying resin for water-base emulsions and hotmelt based adhesives. Production Volume: (Confidential). Number of Customers: (Confidential).

Test marketing period: 12 months, commencing on first day of manufacture.

Risk assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present an unreasonable risk of injury to health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to health or the environment.

Dated: August 1, 1990.

Linda Vlier-Moos,

Acting Director, Chemical Control Division, Office of Toxic Substances.

[FR Doc. 90-18684 Filed 8-8-90; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

August 2, 1990.

The Federal Communications Commission has submitted the following information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act, as amended (44 U.S.C. 3501-3520).

Copies of the submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. Persons wishing to comment on this information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-3785. Copies of these comments should also be sent to the Commission. For further information contact Jerry Cowden, Federal Communications Commission, (202) 632-7513.

OMB number: None.

Title: Sections 22.505 and 22.506, Increases in Antenna Height Above Average Terrain and Effective Radiated Power.

Action: New collection.

Respondents: Businesses (including small businesses).

Frequency of response: On occasion.

Estimated annual burden: 115 responses; 115 hours total annual burden; 1 hour average burden per reponse.

Needs and uses: Common carriers seeking to increase height and effective radiated power in certain frequency bands governed by 47 CFR part 22 are required to make an informational showing including filing a map showing the interference contours, a study of the Commission's Master Frequency File and/or other information the Commission may need to determine compliance with its rules pursuant to §§22.505 and 22.506.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-18648 Filed 8-8-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request to

extend, for a three-year period, its approval of the information collection identified below.

Type of Review: Extension of expiration date without any change in substance or method of collection.
Title: Agricultural Loan Loss Deferral Program.
Form Number: None.
OMB Number: 3064–0091.
Expiration Date of OMB Clearance: October 31, 1990.
Frequency of Response: On occasion.
Respndents: Insured state nonmember banks wishing to participate in the Agricultural Loan Loss Deferral Program; banks already in the program.
Number of Respondents: 46.
Number of Responses Per Respondent: 1.
Total Annual Responses: 46.
Average Number of Hours Per Response: 3.7.
Total Annual Burden Hours: 170.
OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project (3064–0091), Washington, DC 20503.
FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
Comments: Comments on the collections of information are welcome and should be submitted before September 24, 1990.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Insured State nonmember banks wishing to participate in the agricultural loan loss deferral program must submit a proposal to the FDIC. Institutions already in the program must maintain appropriate records.

Dated: August 3, 1990.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 90–18633 Filed 8–8–90; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

August 3, 1990.

BACKGROUND: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATES: Comments must be submitted on or before August 31, 1990.

ADDRESSES: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B–1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.8(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829).

Proposal to approve under OMB delegated authority the extension, without revision, of the following reports:

1. *Report title:* Community Reinvestment Act Questionnaire.
Agency form number: FR 1283.
OMB Docket number: 7100–0052.
Frequency: On occasion.
Reporters: State member banks.
Annual reporting hours: 900.
Estimated average hours per response: 1.50.
Number of respondents: 600.
Small businesses are affected.
General description of report: This information collection is mandatory (12 U.S.C. 325 and 2901(b)) and is given confidential treatment (5 U.S.C. 552(b)(8)).

During a comprehensive consumer affairs compliance examination, the state member bank is required to complete this form, which is called the CRA Questionnaire. After it is completed by a senior bank officer, the questionnaire provides information regarding the bank's efforts to serve the credit needs of its local community.

2. *Report title:* Consumer Satisfaction Questionnaire.
Agency form number: FR 1379.
OMB Docket number: 7100–0135.
Frequency: On occasion.
Reporters: Consumers who have filed complaints against state member banks.
Annual reporting hours: 9.
Estimated average hours per response: 0.25 (15 minutes).
Number of respondents: 34.
Small businesses are affected.
General description of report: This information collection is voluntary (15 U.S.C. 57(a)(f)(1)) and is not given confidential treatment.

The Federal Reserve Board sends this questionnaire to consumers whose complaints against state member banks were received by the Board and referred to Federal Reserve Banks for resolution, and to a sample of consumers whose complaints were received directly by the Federal Reserve Banks. Complainants are requested to answer the questions voluntarily about the effectiveness of the Reserve Bank's efforts in handling the consumer complaint.

3. *Report title:* OTC Margin Stock Report.
Agency form number: FR 2048.
OMB Docket number: 7100–0004.
Frequency: Quarterly.
Reporters: Certain corporations with over-the-counter stock.
Annual reporting hours: 50.
Estimated average hours per response: 0.25 (15 minutes).
Number of respondents: 50.

Small businesses are not affected.
General description of report: This information collection is voluntary (15 U.S.C. 78g, w) and is not given confidential treatment.

This report is used to gather stock information on certain corporations that have stock trading over-the-counter and that are being considered for inclusion on the Federal Reserve Board's List of Marginable OTC Stocks.

4. *Report title:* Officer's Questionnaire.
Agency form number: FR 2410.
OMB Docket number: 7100–0050.
Frequency: On occasion.
Reporters: State member banks.
Annual reporting hours: 150.
Estimated average hours per response: 0.25 (15 minutes).
Number of respondents: 600.
Small businesses are affected.
General description of report: This information collection is mandatory (12 U.S.C. 325) and is given confidential treatment (5 U.S.C. 552(b)(8)).

During a comprehensive consumer affairs compliance examination of a state member bank, the Federal Reserve requires the bank to have a senior bank officer complete this questionnaire, which provides information regarding past, present, and potential lawsuits in which the bank has been or may become involved concerning consumer credit compliance.

5. *Report title:* Notice Claiming Status as an Exempt Transfer Agent.
Agency form number: FR 4013.
OMB Docket number: 7100–0137.
Frequency: On occasion.
Reporters: State member banks, bank holding companies, and trust company subsidiaries of bank holding companies that are subject to supervision by the Federal Reserve Board.
Annual reporting hours: 12.
Estimated average hours per response: 2.
Number of respondents: 6.
Small businesses are not affected.
General description of report: This information collection is voluntary (15 U.S.C. 78c(a)(34)(B)(ii), 78q–1(c)(1)) and is not given confidential treatment.

This voluntary notice provides a method for state member banks, bank holding companies, and trust companies that are subject to Federal Reserve supervision and that are engaged as a transfer agent on behalf of an issuer of securities to claim exemption from several of the Securities and Exchange Commission's rules applicable to registered transfer agents.

Board of Governors of the Federal Reserve System, August 3, 1990.

William W. Wiles,
Secretary of the Board.

[FR Doc. 90–18680 Filed 8–8–90; 8:45 am]
BILLING CODE 6210-01-M

Liberty National Bancorp, Inc.; Request for Exemption From Tying Provisions

Liberty National Bancorp, Inc., Louisville, Kentucky ("Bancorp"), has requested, pursuant to section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971 *et seq.*) ("Section 106"), that the Board grant an exemption from the anti-tying provisions of section 106, in order to permit its lead banking subsidiary, Liberty National Bank and Trust Company of Louisville, Louisville, Kentucky ("National Bank"), to offer reduced annual fees and periodic interest rates on credit card accounts. This reduced consideration for credit card accounts would be available to customers who establish "Packaged Checking Accounts" with Bancorp's other subsidiary banks on the same basis that credit cards are available to the Packaged Checking Account customers of National Bank. Although section 106 permits a bank to fix or to vary the consideration for extending credit or furnishing services on condition that a customer also obtain a traditional banking service (loan, discount, deposit or trust service) from that bank, it prohibits a bank from engaging in these same activities on condition that the customer obtain any additional credit or services from any other subsidiary of the bank's parent bank holding company. The Board may grant, however, an exception that is not contrary to the purposes of this provision.

Bancorp, with consolidated assets of $3,535 billion on December 31, 1989, is the third largest banking organization in Kentucky. It operates ten subsidiary banks and engages directly and indirectly in a variety of permissible non-banking activities. Bancorp's credit card operations are consolidated in National Bank. Bancorp proposes that National Bank provide credit cards on advantageous terms to customers who establish Packaged Checking Accounts with Bancorp's other subsidiary banks. Accordingly, the variation in consideration afforded by National Bank under the special reduced-rate credit card program would be conditioned upon a customer obtaining additional banking services from Bancorp's subsidiary banks, and would therefore be barred by the literal terms of section 106 without an exemption from the Board.

In support of its request for an exemption, Bancorp cites the precedents of (a) the Board's June 20, 1990, order approving requests by Norwest Corporation and NCNB Corporation for an exemption to permit their banks to offer a credit card at lower cost in conjunction with traditional banking services provided by their other subsidiary banks; and (b) the notice of proposed rulemaking issued by the Board on June 22, 1990, proposing to amend § 225.4(d) of the Board's Regulation Y (12 CFR 225.4(d)) to permit a bank owned by a bank holding company to vary the consideration (including interest rates and fees) charged in connection with extensions of credit pursuant to a credit card offered by the bank on the basis of the condition or requirement that a customer also obtain a traditional banking service from another bank subsidiary of the card-issuing bank's holding company. National Bank and its affiliated banks will continue to offer checking deposit services and credit cards separately, and "Packaged Checking Accounts" will be available to their respective customers without a credit card on the same terms as with a credit card.

Notice of the request is published solely in order to seek the views of interested persons on the issues presented by the request and does not represent a determination by the Board that the request meets or is likely to meet the standards of section 106. Any request for a hearing on this issue must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the request for exemption.

The request may be inspected at the offices of the Board of Governors. Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary of the Board of Governors of the Federal Reserve System, Washington, DC 20551 not later than September 6, 1990.

Board of Governors of the Federal Reserve System, August 3, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-18681 Filed 8-8-90; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Immediate Deductions on Stated Overcharges; Payment of Interest To Carriers

AGENCY: Federal Supply Service, GSA.

ACTION: Notice.

SUMMARY: This Notice withdraws from further consideration a GSA proposal for immediate deduction on stated overcharges (or the payment of interest to carriers on erroneous immediate deductions) relative to billings for domestic and foreign freight and passenger transportation services furnished for the account of the United States.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief Regulations, Procedures, and Review Branch, Office of Transportation Audits, 202-501-0981.

BACKGROUND: A Notice containing the above proposal was published in the **Federal Register** on April 3, 1990 (64 FR 12423).

Discussion of Major Comments. The following summarizes major comments, suggestions, and our determination and actions taken. We received nine comments to the Notice: One factoring company, one freight forwarder, two Government agencies, two carrier associations, and three carriers.

Several respondents questioned the legality of our proposal, asserting that it was in potential conflict with the Debt Collection Act (31 U.S.C. 3711), or violated the Prompt Payment Act (31 U.S.C. 3901 *et seq.*) and/or the Contract Disputes Act (41 U.S.C. 3901 *et seq.*). GSA's position, however, is that the law, 31 U.S.C. 3726, present no legal impediment to eliminating the existing appeal step for transportation overcharges and going to immediate deduction if the appropriate rule-making procedures are followed and the carriers retain the current administrative right of appeal on reclaims.

Several carrier industry respondents favored the payment of interest incidental to immediate deduction of erroneous overcharges. Those comments variously asserted that interest should be paid, perhaps by introducing necessary legislation, or would be required under section 3902 of the Prompt Payment Act. Conversely, a major Government finance office argued that interest payments within the context of GSA's immediate deduction proposal are not feasible and cited major accounting problems which would result as well as an apparent lack of funding for such payments. From a legal standpoint, GSA's position on this matter is that it does not have authority to pay interest on refunds to a carrier on overcharge claims admitted after deduction. See, e.g., *United States* v. *Louisiana*, 446 U.S. 253, 264 (1980).

The Notice, was published, however, because of the potential benefit of immediate deductions (i.e., simplified and more timely resolution of overcharges). Nonetheless there was unanimous objection. Most respondents felt that the current right of review prior to deduction should be retained out of fairness and equity. Some parties noted specifically that because the Government's outside (contract) auditors have a financial interest in issuing overcharges their actions should be subject to independent review by GSA.

Industry respondents also argued that immediate deduction of stated overcharges would be burdensome to the carriers.

Certified to be a true copy of the original document 1 commenter stated that there would be a need for additional internal paperwork. Other parties expressed concern that the proposal would work a financial hardship on carriers, alleging that overcharges issued by the Government's contract auditors are often in error. One carrier, for example, argued pointedly that "interest payment is not the issue—loss of operating income is." Finally, several industry respondents doubted whether the advantages of direct deduction stated in our Notice would be of significant importance to carriers.

A major Government finance center asserted that immediate deduction of overcharges would also be burdensome to the Government. That office said it could not reasonably be expected to notify carriers of stated overcharges at the time deductions are made because of the major increase in data processing and paper work which would be required. Some carriers (those who have not submitted bills for payment) the office said it could not notify or overcharges under any circumstance, and it felt the proposal would only serve to make Government claims collection efforts more difficult.

In view of these objections and the fact that no comments were received supporting the immediate deduction of stated overcharges, this proposal is withdrawn from further consideration.

Dated: August 1, 1990.

E.W. Piasecki,

Director, Office of Transportation Audits.

[FR Doc. 90-18658 Filed 8-8-90; 8:45 am]

BILLING CODE 6820-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Program Announcement 048]

Cooperative Agreements for University Programs for Health Education to Prevent Human Immunodeficiency Virus (HIV) Infection and Other important Health Problems

Introduction

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1990 (FY90) for cooperative agreements with universities to implement effective health education programs to prevent HIV infection and other important health problems.

Authority: This program is authorized under the Public Health Service Acts, section 301(a) (42 U.S.C. 241(a)) and section 311 (b) and (c) (42 U.S.C. 243(b)(c)), as amended.

Eligible Applicants

Eligible applicants are universities in States with the highest cumulative incidence of AIDS cases. In FY90, universities in States from which a cumulative total of over 3,000 AIDS cases were reported by CDC as of 12/31/89 are eligible. This includes universities in California, Florida, Georgia, Illinois, New Jersey, New York, Pennsylvania, Puerto Rico, and Texas. Funding priority will be given to universities that prepare the greatest numbers of persons to become elementary or secondary school teachers in the State. Only *one* university may be funded per State.

Availability of Funds

Approximately $1,750,000 will be available in FY90 to fund approximately five cooperative agreements. Awards will range from $300,000 to $400,000, with an average award of $350,000. In addition, approximately $650,000 will be available to fund an optional training/demonstration activity in two State universities that receive funding for the cooperative agreements described above. Awards will be made for a 12-month budget period within a 5-year project period. Continuation awards within project period are made on the

basis of satisfactory performance and the availability of funds. Funding estimates outlined above may vary and are subject to change. Funds may be used to support personnel (including their training and travel), and to purchase supplies and services directly related to planning, organizing, and conducting the activities of this announcement.

Purpose

The purpose of these cooperative agreements is to increase the number of colleges and universities that implement effective programs to: (1) Prevent the spread of HIV infection and other important health problems such as sexually transmitted diseases and unintented pregnancy among college students in the State, (2) prepare school personnel to effectively implement education to prevent HIV infection and other important health problems, and (3) work with relevant public and private sector agencies within the State to prevent HIV infection and other important health problems among school-aged and college-aged youth in the State.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A. and B. below and CDC will be responsible for conducting activities under C.

A. Recipient Activities

1. Serve as lead agency to establish, staff, and sustain a Statewide consortium on education to prevent HIV infection and other important health problems, by involving administration, faculty, student, and health care center representatives from institutions of higher education from throughout the State to promote the sharing of expertise and scarce resources. The consortium should meet on a regular basis.

2. Collaborate with other institutions in the consortium, with input from State and local health and education agencies, and relevant national organizations and programs, including the American College Health Association (ACHA) and the Health Resource and Service Administration's (HRSA) AIDS Education and Training Centers, to establish policies, guidelines, programs, and materials for (a) HIV education on campuses, (b) infection control on campuses, (c) pre- and in-service training of teachers in school health education that includes HIV education. The consortium shall emphasize reaching students who are at highest risk of acquiring HIV infection, and the special needs of institutions of higher education with high numbers of minority students.

3. Disseminate to consortium members: College-level educational materials and information about the availability and quality of educational strategies, materials, and programs related to HIV education, other important health problems, and comprehensive school health.

4. Train college or university staff and students to implement effective HIV prevention education programs, and assist other institutions in the consortium to provide such training and to implement effective programs.

5. Collaborate with the State and local education and health agencies, and relevant national organizations, including ACHA, to plan, implement, and evaluate pre-service and in-service training programs regarding HIV prevention education for teachers, and assist other institutions in the consortium to do the same.

6. Annually assess the extent to which HIV prevention education is available on campuses in the State, by documenting the number and percentage of junior colleges, colleges, and universities currently providing HIV prevention education; the number and percentage of students receiving HIV prevention education on each campus in the State; the number and percentage of colleges and universities that implement pre-service and in-service training programs for teachers; and the number and percentage of student teachers and teachers receiving such training.

7. Conduct surveys to determine the extent to which representative samples of junior college, college, and university students in the State practice behaviors that increase or decrease their risk of HIV infection and other priority health problems.

8. Assure the implementation of effective HIV education programs that address the specific needs and issues relevant to students, at highest risk of acquiring HIV infection, minority students and students who have special education needs.

9. Participate in sharing with other prevention programs HIV prevention education curricula, program descriptions, progress reports, and educational materials through CDC's AIDS School Health Education Database; utilize the database to avoid duplication of efforts; and participate actively in the electronic bulletin board (PSInet computer network).

10. Participate with CDC and other State, local, and national organizations in an annual conference and one additional workshop about education to prevent HIV infection and other important health problems for youth, school, and college populations.

B. Recipient Activities—Optional Training/Demonstration Activity

1. Purpose

The purpose of this activity is to demonstrate to personnel from institutions of higher education throughout the nation how a university (1) provides effective education to prevent HIV infection and other important health problems for college-aged youth, (2) assures that a high proportion of students receives that education each year, (3) establishes or enhances existing health education and HIV prevention education components within teacher training programs, (4) deals effectively with HIV-related controversies, (5) implements effective HIV prevention education with consideration for cultural differences, (6) assesses the quality and impact of education programs to prevent HIV infection and other health problems, (7) monitors changes, over time, in the prevalence of risk behaviors among representative samples of students, and (8) functions as the lead agency in a Statewide consortium consisting of representatives from other institutions of higher education within the State on the prevention of HIV and other important health problems.

2. Activities

a. Implement and conduct four training/demonstration sessions with approximately 40 participants at each training session for representatives from lead institutions of higher education from other States and territories. Work closely with CDC, State and local education agencies, and relevant national organizations, including ACHA, and other State universities in identifying participants for training and in carrying out these training/demonstration sessions.

b. Plan and provide for the travel, per diem, and lodging expenses of approximately 40 participants attending each of the four training/demonstration programs. Approximately $150,000 of the awarded funding should be planned for these costs, which cannot exceed those established by the Federal Government.

c. Recommend that each college or university participating in the training session consider sending to the training session a team of approximately 5 representatives, which could include representatives of the, Office of the President, university departments of health education, student health

services, teacher training programs, existing HIV education programs, student organizations, staff from on-campus housing, or other representatives as deemed appropriate by the participating institution.

C. Centers For Disease Control Activities

1. Provide and periodically update information about AIDS and prevention of infection with HIV. Provide other guidance, recommendations, and standards that may be used as a basis for promoting, supporting, improving, and assessing HIV education for students.

2. Assist in the identification and development of prototype educational materials and assessment instruments that can be used by students and personnel involved in HIV education on campus.

3. Provide information about resources relevant to HIV education on college and university campuses, including program descriptions, educational materials, policies and curricula; assure the availability of such information through the Combined Health Information Database's (CHID) AIDS School Health Education Database; and be on-line with the electronic bulletin board (PSInet computer network).

4. Conduct an annual meeting to identify achievements and successful actions in the implementation of effective HIV education on college and university campuses, to identify problems that hinder the effectiveness of HIV education on college and university campuses, and to obtain recommendations about actions CDC and junior college, colleges, and universities and other might take to resolve problems.

5. Provide technical assistance, direction, and assessment related to achieving approved program objectives.

6. Coordinate training and consultation about effective education to prevent HIV infection and other important health problems for college and university representatives at CDC-funded training/demonstration sites.

7. Provide technical assistance in planning and implementing surveys to determine (1) the availability of HIV education on college and university campuses, and (2) levels of HIV-related knowledge, beliefs, and/or behaviors as well as other relevant health knowledge, beliefs, and/or behaviors among representative samples of college students. Activities will include technical assistance in analyzing and using data for program planning and improvement.

8. Provide technical assistance in planning and implementing methods to evaluate the appropriateness and adequacy of program activities designed to implement education to prevent HIV infection and other important health problems among junior college, college, and university students. Provide technical assistance to determine the effectiveness of educational interventions designed to influence behaviors and behavioral determinants associated with the spread of HIV infection and other important health problems. Activities will include technical assistance in analyzing and using State collected data for program planning and improvement.

Projects funded through a cooperative agreement that involve collection of information from 10 or more respondents will be subject to review under the Paperwork Reduction Act.

Evaluation Criteria

A. Eligible applications for a new project period submitted under this announcement number will be evaluated by a CDC-convened review committee on an individual basis according to the following criteria:

(1) *Background/Need:* The extent to which the applicant describes the target populations, and the number of AIDS cases reported in the State, and the need to increase the number of colleges and universities providing effective HIV education, including a summary of current HIV education and prevention activities occurring on campuses in the State, and the approximate annual number and percentage of all entry-level teachers in the State who were prepared to become teachers by the applicant. (10 points).

(2) *Capacity:* The extent to which the applicant has the capacity to achieve proposed objectives and to resolve modifiable barriers to such an achievement in terms of the applicant's structure, staff, and history in working with other colleges and universities, particularly in health education and other health-related areas. (20 points).

(3) *Coordination:* The extent to which other institutions within their State that have been involved in planning the cooperative agreement application and the extent to which these junior colleges, colleges, and universities have been involved in the development of proposed objectives and activities. Additionally, the extent to which the applicant demonstrates a willingness to coordinate with organizations and agencies at the State, local and national levels currently conducting related HIV prevention activities, and make use of relevant and appropriate existing educational materials such as those contained in the CHID AIDS School Health Education Database. (20 points).

(4) *Program Plan:*

(a) The extent to which proposed objectives are specific, measurable, and feasible to be accomplished during the budget period.

(b) The extent to which factors that influence the achievement of proposed objectives are identified.

(c) The extent to which proposed objectives will lead to the achievement of the program's objectives during the budget period.

(d) The extent to which plans to collect evaluation data will allow the applicant to monitor progress in meeting program objectives and evaluate the effectiveness of program activities. (35 points).

(5) *Evidence of Support:* The extent to which relevant organizations support the proposal. (10 points).

(6) *Transfer of Technology:* The extent to which the applicant plans to share descriptions of the funded program and evidence of its effectiveness with other agencies responsible for, or involved with, HIV education in colleges or universities. (5 points).

(7) *Budget and Budget Justification Narrative:* The extent to which the applicant describes the total amount of funds requested in each of the object class categories and clearly links the budget items to objectives and activities proposed for the budget period. (Not weighted).

(8) *Optional Training/Demonstration Activity: Evaluation Criteria*

(a) The extent to which the applicant provides evidence that it can be successful in promoting, providing, and/or demonstrating (1) effective HIV education on a college or university campus, and (2) effective teacher training in comprehensive school health education that includes HIV education. (40 points).

(b) The extent to which the applicant describes how the proposed program is coordinated with the activities and plans of the State and local education and health agencies and other national, State, and local agencies that serve college-aged youth. (30 points).

(c) The extent to which the applicant proposes training/demonstration program objectives that are specific, measurable, and feasible, and activities that will result in the accomplishment of objectives during the budget period. (30 points).

Other Requirements

Recipients must comply with the document titled; "Content of HIV/AIDS-

Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions in Centers for Disease Control Assistance Programs" (June 1990) [55 FR 23414, June 7, 1990].

Executive Order 12372 Review

Applications are subject to review as governed by Executive Order 12372, entitled Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 13.118.

Application Submission and Deadline Date

The original and two copies of the application (PHS Form 5161–1) must be submitted to Candice Nowicki, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305, on or before September 4, 1990.

A. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial mail carrier. Private metered postmarks shall not be accepted as proof of timely mailing.

B. *Late Applications:* Applications that do not meet the criteria in 1.a. or b. are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

Information on application procedures, and application packages may be obtained from Nealean K. Austin, Grants Management Specialist, Grants Management Branch, Procurements and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305; or by calling (404) 842–6575 or FTS 236–6575.

Please refer to Announcement Number 048 when requesting information and submitting any application on the Request for Assistance.

Technical assistance may be obtained from Jack T. Jones, Branch Chief, Program Development and Services Branch, Division of Adolescent and School Health, Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control, Atlanta, Georgia, 30333, Telephone (404) 639–3824 or FTS 236–3824.

Dated: August 3, 1990.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 90–18646 Filed 8–8–90; 8:45 am]

BILLING CODE 4160–18–M

Centers for Disease Control

[Program Announcement 050]

Cooperative Agreements To Support National Programs for Comprehensive School Health Education To Prevent HIV Infection and Other Important Health Problems

Introduction

The Centers for Disease Control (CDC) announces the availability of funds for Fiscal Year 1990 (FY 1990) for cooperative agreements to support national programs for comprehensive school health education to prevent HIV infection and other important health problems.

Authority: This program is authorized under the Public Health Service Act, section 301(a) (42 U.S.C. 241(a)), as amended, and section 311 (b and c) (42 U.S.C. 243 (b) and (c)), as amended.

Eligible Applicants

Eligible applicants are national organizations that may be private, nonprofit, health, education, social service, professional, or voluntary organizations with organizational capacities and experience to help State and local education agencies, and other relevant agencies, across the nation, in implementing comprehensive school health education programs for kindergarten through 12th-grade students.

Availability of Funds

Approximately $600,000 will be available in FY 1990 to fund approximately two cooperative agreements. Awards will average $300,000. Awards will be made for a 12-month budget period with a project period of 1 to 5 years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress, and the availability of funds.

Purpose

The purpose of this program is to increase the number of schools, nationwide, that provide health education within a comprehensive school health education curriculum that establishes a foundation for understanding relationships between personal behaviors and health. This program will enable national organizations with relevant experience, capacity, and constituents to help State and local education agencies, and other relevant agencies, in establishing training centers to help disseminate comprehensive school health education curricula and to help teachers use such curricula; in establishing or improving State or local coalitions to help implement comprehensive school health education programs; and in planning, implementing, maintaining, and evaluating comprehensive school health education programs.

Program Requirements

In conducting activities to achieve the purpose of this program the recipient shall be responsible for conducting recipient activities and CDC will be responsible for conducting CDC activities, as follows.

A. Recipient Activities

1. Document needs and barriers that hinder progress in achieving the purposes of this program, and that the organization is in a unique position to help resolve. Document progress, as approriate, in resolving those needs and barriers.

2. Maintain the capacity, including a full-time program coordinator and appropriate staff, knowledge, and relevant skills to conduct activities to help resolve identified needs and barriers that hinder progress in achieving the purposes of this program. As appropriate, such capacities include, but are not limited to, demonstrating:

a. Knowledge and understanding of the technical assistance needs of State education agencies and CDC-funded local education agencies, as related to the establishment of Comprehensive School Health Education Training Centers.

b. Knowledge and understanding of national, public and private, professional and voluntary health and education agencies, especially those with regional, State, or local affiliates, and the technical assistance needs of State education agencies and CDC-funded local education agencies, as related to the establishment of comprehensive school health education coalitions at the State and local levels.

c. The ability to provide immediate technical assistance to identified State education agencies and CDC-funded local education agencies; and the ability to provide technical assistance to other State or local education agencies identified by CDC.

d. A working knowledge of broadly disseminated comprehensive school health education curricula and programs; means that have been used to disseminate such curricula; evaluations of leading comprehensive school health education curricula and programs; the design, implementation, and evaluation of workshops to train school personnel to implement these curricula; and the ability to integrate new or updated health education materials into comprehensive school health education curricula.

e. A working knowledge of current literature about coalition building and maintenance; existing national, State, and local school health education coalitions; and experience in providing technical assistance to State and local health or education coalitions.

f. The ability to promote and provide collaborative opportunities for universities and colleges of education with departments of health education to participate in building State and local coalitions for comprehensive school health education.

3. Work with relevant national, State, and local education and health agencies in undertaking collaborative or complementary activities to help resolve identified needs and barriers that hinder progress in achieving the purposes of this program.

4. Maintain and follow a workplan to help resolve identified needs and barriers, including: Specific, measurable, and feasible program objectives; factors associated with the accomplishment of each objective; activities to achieve each objective; and methods to evaluate progress in achieving objectives and carrying out project activities. Project activities may include, but not limited to, such efforts as:

a. Assisting State education agencies and CDC-funded local education agencies to establish training centers that can provide:

(1) Training and technical assistance to teachers, and other school personnel, in planning, implementing, and evaluating comprehensive school health education curricula.

(2) Training for a variety of broadly disseminated comprehensive school health education curricula, and that local school districts select to meet their needs, including curricula that are validated as effective by the U.S. Department of Education's Program Effectiveness Panel (formerly the Joint Dissemination Review Panel), and other curricula that have been evaluated and determined to be effective in influencing health-related knowledge, beliefs, and practices among students.

(3) Special emphasis on training teachers to educate youth about HIV infection. Special emphasis is needed because of the current HIV epidemic and the critical need for effective education to help young people learn how to avoid becoming infected with the virus that causes AIDS.

(4) Collaborative opportunities for universities and colleges that train teachers to work with State and local education agencies in implementing inservice and preservice training in comprehensive school health education curricula. Universities and colleges that have departments of health education ideally should be involved in providing such training:

b. Assisting State education agencies and CDC-funding local education agencies to implement comprehensive school health education coalitions, including:

(1) Identifying potential coalition member organizations such as State and local, public and private, professional and voluntary, education and health organizations; organizations representing the needs and interests of youth, minority populations, and special education populations such as the hearing and visually impaired; universities and colleges of teacher training; organizations representing religious, business, and political interests; and already existing coalitions.

(2) Planning and implementing workshops to train local education agency personnel in planning, implementing, and maintaining local comprehensive school health education coalitions.

(3) Focusing the coalition's priorities on comprehensive school health education curricula that help students acquire the knowledge, skills, and support they may need to prevent priority health problems and that help students to avoid or reduce behavioral risks associated with leading causes of mortality, morbidity, and disability.

(4) Providing special emphasis on preparing coalitions to support effective education for youth about HIV infection. Special emphasis is needed because of the sensitive and complex nature of HIV instruction and the critical need for effective education to help young people learn how to avoid becoming infected with the virus that causes AIDS.

5. Develop and maintain the support of relevant organizations to help resolve identified needs and barriers that hinder progress in achieving the purposes of this program.

6. Work cooperatively with CDC in developing materials and sharing, through CDC's Combined Health Information Database, copies of education curricula designed to prevent important health problems among youth, as well as sharing copies of program descriptions, progress reports, and education materials. Actively participate on-line with other users of the electronic bulletin board established by the Council of Chief State School Officers (PSInet computer network system). Use the database and the electronic bulletin board to avoid duplication of developmental efforts and obtain information about the availability of existing materials.

7. Participate with CDC and other national organizations in an annual conference and in at least two meetings during the budget period.

B. Centeres for Disease Control Activities

1. Provide and periodically update information about chronic diseases, infectious diseases, risky behaviors, behavioral determines, and health promotion strategies.

2. Provide guidance of the development or selection of curricula, education materials, recommendations, standards, and assessment instruments that may be used as a basis for planning, implementing, and assessing comprehensive school health education curricula, programs, and important health problems.

3. Provide information about resources relevant to planning, implementing, maintaining, and evaluating comprehensive school health education curricula and programs, including program descriptions, educational materials, policies, and protocols; and assure the availability of such information through CDC's Combined Health Information Database. Provide appropriate information through the electronic bulletin board (PSInet computer network system).

4. Provide technical assistance related to the attainment and assessment of program objectives, development of educational materials and strategies, and dissemination of successful strategies, experiences, and evaluation reports.

5. Plan meetings of national State, and local education agencies to address issues and program activities related to improving comprehensive school health education curricula and programs.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

A. *Background/Need:* The extent to which the applicant justifies the program's needs and identifies modifiable barriers that hinder progress in the implementation of comprehensive school health education curricula and/or programs. (10 points)

B. *Capacity:* The applicant's demonstrated capacity to help implement comprehensive school health education curricula and/or programs. (20 points)

C. *Coordination:* The applicant's demonstrated ability to coordinate efforts with other national organizations and to plan and carry out complementary, collaborative, and organized activities with national, State, and local education agencies. (20 points)

D. *Objectives/Factors/Activities/Evaluation:*

1. *Objectives:* The extent to which proposed objectives for the budget period are important, specific, measurable, and feasible.

2. *Factors:* The extent to which factors that influence the achievement of the proposed objectives are identified.

3. *Activities:* The extent to which proposed activities will lead to the achievement of the program's objective *during the budget period.*

4. *Evaluation:* The extent to which evaluation plans will allow the applicant to monitor progress in meeting program objectives, evaulate the effectiveness of program activities, report the results of such evaluations, and use assessment information to improve the program. (35 points)

E. *Evidence of Support:* The extent to which relevant organizations support the proposal. (10 points)

F. *Transfer of Technology:* The extent to which the applicant plans to share descriptions of the funded programs, materials, and evidence of its effectiveness with other agencies. (5 points)

G. *Budget and Budget Justification Narrative:* The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of the cooperative agreement funds. (Not scored)

Other Requirements

Recipients must comply with the document titled: "Content of HIV/AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions in Centers for Disease Control Assistance Programs" (55 FR 23414, June 7, 1990).

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, entitled Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 13.118.

Application Submission and Deadline

The original and two copies of the application (PHS Form 5161–1) must be submitted to Candice Nowicki, Grants Management Officer, Grants Management Branch, Procurements and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., Room 300, Atlanta, Georgia 30305, on or before September 4, 1990.

A. *Deadline:* Applicant shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial mail carrier. Private metered postmarks shall not be accepted as proof of timely mailing.

B. *Late Applications:* Applications that do not meet the criteria in A.1. or 2. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

Information on application procedures, copies of application forms, and other material may be obtained from Nealean Austin, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., room 300, Atlanta, Georgia 30305; or by calling (404) 842–6575 or FTS 236–6575.

Please refer to Announcement Number 050 when requesting information and submitting any application on the Request For Assistance.

Technical assistance may be obtained from Jack T. Jones, Chief, Program Development and Services Branch, Division of Adolescent and School Health, Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control, Atlanta, Georgia 30333, or by calling (404) 639–3824 or FTS 236–3824.

Dated: August 3, 1990.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 18647 Filed 8–8–90; 8:45 am]

BILLING CODE 4160–18–M

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Medical Classification Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the NCVHS Subcommittee on Medical Classification Systems established pursuant to 42 U.S.C. 242k, section 306(k)(2), of the Public Health Service Act, as amended, announces the following meeting.

Name: NCVHS Subcommitte on Medical Classificiation Systems.

Time and Date:

August 27, 1990, 9 a.m.–5 p.m.

August 28, 1990, 9 a.m.–3 p.m.

Place: Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The purpose of this meeting is for the Subcommittee to discuss: implementation plans for the tenth revision of the International Classification of Diseases; the status of the National Center for Health Statistics Morbidity Branch; Health Care Financing Administration update on development of uniform procedures code selection, coding of visits in ambulatory and other settings; short-term activities for the Subcommittee.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of Committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, room, 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone number (301) 436–7050.

Dated: August 3, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90–18650 Filed 8–8–90; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 90P-0193]

Cottage Cheese Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to The Kroger Co. to market test a product designated as "nonfat cottage cheese" that deviates from the U.S. standards of identity for cottage cheese (21 CFR 133.128) and lowfat cottage cheese (21 CFR 133.131). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product, identify mass production problems, and assess commercial feasibility.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than November 7, 1990.

FOR FURTHER INFORMATION CONTACT: Joanne Travers, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0106.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to The Kroger Co., P.O. Box 1199, Cincinnati, OH 45201-1199.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standards of identity for cottage cheese (§ 133.128) and lowfat cottage cheese (§ 133.131) in that the milkfat contents of the test product is 0.1 percent compared to 4.0 percent milkfat in cottage cheese and 0.5 to 2.0 percent milkfat in lowfat cottage cheese. The product meets all requirements of the standards with the exception of this deviation. The purpose of this variation is to offer the consumer a product that is nutritionally equivalent to cottage cheese but contains less fat.

For the purpose of this permit, the name of the product is "nonfat cottage cheese." In accordance with FDA's current views, "fat free" food labeling is acceptable because the product contains less than 0.4 gram of fat per serving. The information panel of the label must bear nutrition labeling in accordance with 21 CFR 101.9.

The permit provides for the temporary marketing of a total of 6 million pounds of test product to be packaged in 24-ounce containers and sold throughout the continental United States. The test product will be produced and packaged at Crossroad Farms Dairy, Indianapolis, IN 46206; Heritage Farms Dairy, Murfreesboro, TN 37130; Michigan Dairy, Livonia, MI 48150; Tamarack Farms Dairy, Newark, OH 43055; Vandervoort Dairy, Ft. Worth, TX 76161; Westover Dairy, Lynchburg, VA 24506; and Winchester Farms Dairy, Winchester, KY 40391.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced into interstate commerce, but no later than November 7, 1990.

Dated: July 31, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-18709 Filed 8-8-90; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Privacy Act of 1974; New System of Records

AGENCY: Department of Health and Human Services. (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, "Evaluation of the Home Health Agency (HHA) Prospective Payment Demonstration," HHS/HCFA/ORD No. 09-70-0049. We have provided background information about the proposed system in the "Supplementary Information" section below. Although the Privacy Act requires only that the "routine uses" portion of the systems be published for comment, HCFA invites comments on all portions of this notice. See "DATES" section for comment period.

DATES: HCFA filed a new system report with the Chairman of the Committee on Government Operations of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate, and the Acting Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, on August 6, 1990.

ADDRESSES: The public should address comments to Richard DeMeo, HCFA Privacy Act Officer, Office of Budget and Administration, Health Care Financing Administration, Room 108 Security Office Park Building, 7008 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Tony Hausner, Division of Long Term Care Experimentation, Office of Research and Demonstrations, Health Care Financing Administration, Room 2-E-5 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone (301) 966-6652.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a new system of records collecting data under the authority of section 4027 of Pub. L. 100-203, the Omnibus Budget Reconciliation Act of 1987. The purpose of this system of records is to provide data necessary to evaluate HCFA's HHA Prospective Payment Demonstration. This demonstration will test two different prospective payment rate-setting methodologies for HHAs that provide Medicare-covered home health services. The demonstration will be conducted at 133 HHAs located in California, Florida, Illinois, Massachusetts, and Texas. The system will furnish information necessary to determine the impact of prospective rate-setting on HHAs' costs and operations, quality of care, and medicare expenditures. The two prospective payment methods will be tested in two phases. In Phase 1, beginning in 1990, 67 HHAs will be recruited to participate in a test of the per-visit payment method. Each HHA that participates in Phase 1 will do so for 3 years. However, since HHAs will be phased into and out of the demonstration based on their fiscal year end dates, the actual operational period of the demonstration is expected to be 3 years and 9 months. Beginning in 1992, 66 additional HHAs will be recruited to test the per-episode payment method in Phase 2 of the project. Each of these HHAs will participate for 3 years, although these HHAs also will enter and leave the demonstration gradually based on their fiscal year dates. The entire operational period of the demonstration, including both phases, will be from October 1990 to June 1996.

The system of records is expected to include data collected from the Medicare claims files; plans of treatment

and related information from HHAs' medical records; patient intake forms that will be completed by HHAs in the demonstration to supplement the Medicare plans of treatment; assessments by Peer Review Organizations (PROs) of the quality of care received by a sample of patients; and a survey of patients served by the HHAs. Depending on the size of the HHAs that are chosen to participate in the demonstration, information will be collected on between 90,000 and 300,000 Medicare home health patients. This information will be collected by evaluation contractors that will conduct an independent evaluation of the results of the project.

In order to fulfill the objectives and complete the tasks of this contract, the contractor must have individually identifiable records. Since we are proposing to establish this system of records in accordance with the requirements and principles of the Privacy Act, it will not have an unfavorable effect on the privacy or other personal rights of individuals.

The Privacy Act permits us to disclose information without the consent of the individual for "routine use"—that is, disclosure for purposes that are compatible with the purposes for which we collected the information. The proposed routine uses in the new system meet the compatibility criteria since the information is collected for the purpose of administering the Medicare program for which we are responsible. The disclosures under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: July 30, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

09-70-0049

SYSTEM NAME:

Evaluation of the Home Health Agency Prospective Payment Demonstration

SECURITY CLASSIFICATION

None.

SYSTEM LOCATION:

An evaluation contractor to be selected by HCFA. Contact system manager for the location of the contractor.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Medicare beneficiaries who receive Medicare-covered home health services at one of the 133 HHAs in five States (California, Florida, Illinois, Massachusetts, and Texas) chosen to participate in the demonstration.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system will contain information concerning a patient's name, Health Insurance Claim Number, demographic characteristics (e.g., age, sex), medical diagnoses and conditions, receipt of services, functional status, and utilization and cost of home health and other Medicare services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 4027 of Pub. L. 100-203, the Omnibus Budget Reconciliation Act of 1987.

PURPOSE(S):

To provide data necessary to evaluate the results of the HHA Prospective Payment Demonstration, including impacts on agency costs, utilization of health care services, Medicare expenditures, and quality of care.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made:

1. To the evaluation contractor, to be selected by HCFA, who will use this information to analyze the impacts of the prospective payment methods tested in the demonstration.

2. To a congressional office, from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. To the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when

a. The Department of Health and Human Services (HHS), or any component thereof; or

b. Any HHS employee in his or her official capacity; or

c. Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

d. The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components; is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that each disclosure is compatible with the purpose for which the records were collected.

4. To a contractor for the purpose of collating, analyzing, aggregating, or otherwise refining or processing records in this system, or for developing, modifying, and/or manipulating it with ADP software. Data would also be available to users incidental to consultation, programming, operation, user assistance, or maintenance for an ADP or telecommunications system containing or supporting records in the system.

5. To an individual or organization for a research, demonstration, evaluation, or epidemiologic project related to the prevention of disease or disability or the restoration of health if HCFA:

a. Determines that the use of disclosure does not violate legal limitations under which the record was provided collected, or obtained;

b. Determines that the research purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form, and

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use would be accomplished.

c. Requires the recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the infomation that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient presents an adequate justification of a research or health nature for retaining such infomation, and

(3) Makes no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual, or

(b) For use in another research project, under these same conditions, and with the written authorization of HCFA, or

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law;

d. Secures a written statement attesting to the recipient's

understanding of a willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic tape.

RETRIEVABILITY:

Information will be retrieved by beneficiary's name and health insurance claim number.

SAFEGUARDS:

The contractor will maintain all records in secure storage areas accessible only to authorized employees and will notify all employees having access to records of criminal sanctions for unauthorized disclosure of information on individuals. For computerized records, the contractor will initiate automated data processing (ADP) system security procedures required by HHS *Information Resources Manual* (e.g., use of passwords) and the National Bureau of Standards Federal Information Processing Standards. Similar safeguards will be provided if any records are transferred to HCFA central office.

RETENTION AND DISPOSAL:

Hardcopy data collection forms and magnetic tapes with identifiers will be retained in secure storage areas. Records will be retained for one year after the termination of the evaluation contract. The disposal techniques of degaussing will be used to strip magnetic tape of identifying names and numbers. Hardcopy records will be destroyed at this time.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Research and Demonstrations, Health Care Financing Administration, 2230 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURE:

Inquiries and requests for system records should be addressed to the system manager at the address indicated above. The requestor must specify the name, address, and health insurance number.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requestors should reasonably specify the record contents being sought. These procedures are in accordance with Department Regulations 45 CFR 5b.6.

CONTESTING RECORD PROCEDURES:

Contact the system manager named above and reasonably identify the record and specify the information to be contested. State the reason for contesting it (e.g., why it is inaccurate, irrelevant, incomplete, or not current). These procedures are in accordance with Department Regulations, 45 CFR 5b.7

RECORD SOURCE CATEGORIES:

Sources of information contained in this records system are expected to include: Data collected from the Medicare claims files; Medicare Statistical Systems; HHA plans of treatment and related patient records; supplemental patient intake forms that will be completed by the HHAs; a survey of home health patients; and results of quality assessments conducted by PROs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 90-18688 Filed 8-8-90; 8:45 am]

BILLING CODE 4120-03-M

Privacy Act of 1974; New System of Records

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, "Monitoring of the Home Health Agency (HHA) Prospective Payment Demonstration," HHS/HCFA/ORD No. 09-70-0048. We have provided background information about the proposed system in the **"SUPPLEMENTARY INFORMATION"** section below. Although the Privacy Act requires only that the "routine uses" portion of the systems be published for comment, HCFA invites comments on all portions of this notice. See **"DATES"** section for comment period.

DATES: HCFA filed a new system report with the Chairman of the Committee on Government Operations of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate, and the Acting Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, on August 6, 1990.

ADDRESSES: The public should address comments to Richard DeMeo, HCFA Privacy Act Officer, Office of Budget and Administration, Health Care Financing Administration, Room 108 Security Office Park Building, 7008 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Marilyn Vranas, Division of Long Term Care Experimentation, Office of Research and Demonstrations, Health Care Financing Administration, Room 2-E-5 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone (301) 966-6666.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a new system of records, collecting data under the authority of section 4027 of Public Law 100-203, the Omnibus Budget Reconciliation Act of 1987. The purpose of this system of records is to provide data necessary to monitor the operations of HCFA's HHA Prospective Payment Demonstration. This demonstration will test two different prospective payment rate-setting methodologies for HHAs that provide Medicare-covered home health services. The demonstration will be conducted at 133 HHAs located in California, Florida, Illinois, Massachusetts, and Texas. The system will furnish information necessary to determine the impact of prospective rate-setting on HHAs' costs and operations, quality of care, and Medicare expenditures. The two prospective payment methods will be tested in two phases. In Phase 1, beginning in 1990, 67 HHAs will be recruited to participate in a test of the per-visit payment method. Each HHA that participates in Phase 1 will do so for 3 years. However, since HHAs will be phased into and out of the demonstration based on their fiscal year end dates, the actual operational period of the demonstration is expected to be 3 years and 9 months. Beginning in 1992, 66 additional HHAs will be recruited to test the per-episode payment method in Phase 2 of the project. Each of these agencies will participate for 3 years, although these agencies also will enter and leave the demonstration gradually based on their fiscal year dates. The entire operational period of the demonstration, including both phases, will be from October 1990 to June 1996.

The system of records is expected to include data collected from the Medicare claims files; plans of treatment and related information from HHAs' medical records; patient intake forms that will be completed by HHAs in the demonstration to supplement the Medicare plans of treatment; and assessments by Peer Review Organizations (PROs) of the quality of

care received by a sample of patients. Depending on the size of the HHAs that are chosen to participate in the demonstration, information will be collected on between 90,000 and 300,000 Medicare home health patients. This information will be collected by an implementation contractor that will assist HCFA in monitoring the operations of the project.

In order to fulfill the objectives and complete the tasks of this contract, the contractor must have individually identifiable records. Since we are proposing to establish this system of records in accordance with the requirements and principles of the Privacy Act, it will not have an unfavorable effect on the privacy or other personal rights of individuals.

The Privacy Act permits us to disclose information without the consent of the individual for "routine use"—that is, disclosure for purposes that are compatible with the purposes for which we collected the information. The proposed routine uses in the new system meet the compatibility criteria since the information is collected for the purpose of administering the Medicare program for which we are responsible. The disclosures under the routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: July 3, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

09–70–0048

SYSTEM NAME:

Monitoring of the Home Health Agency Prospective Payment Demonstration

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

An implementation contractor to be selected by HCFA. Contact system manager for the location of the contractor.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Medicare beneficiaries who receive Medicare-covered home health services at one of the 133 HHAs in five States (California, Florida, Illinois, Massachusetts, and Texas) chosen to participate in the demonstration.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system will contain information concerning a patient's name, Health Insurance Claim Number, demographic characteristics (e.g., age, sex) medical diagnoses and conditions, receipt of services, functional status, and utilization of home health services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 4027 of Pub. L. 100–203, the Omnibus Budget Reconciliation Act of 1987.

PURPOSE(S):

To provide data necessary to monitor the operations of the HHA Prospective Payment Demonstration, compute certain annual payment rate adjustments that reflect changes in HHAs' patient case mix, and select random samples of patients to be included in the demonstration's quality assurance reviews.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made:

1. To the implementation contractor, to be selected by HCFA, who will use this information to assist HCFA in general monitoring of project operations and compute annual payment rate adjustments to reflect changes in patient case-mix. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

2. To a congressional office, from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. To the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when

a. The Department of Health and Human Services (HHS), or any component thereof; or

b. Any HHS employee in his or her official capacity; or

c. Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

d. The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components; is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that each disclosure is compatible with the purpose for which the records were collected.

4. To a contractor for the purpose of collating, analyzing, aggregating, or otherwise refining or processing records in this system, or for developing, modifying, and/or manipulating it with ADP software. Data would also be available to users incidental to consultation, programming, operation, user assistance, or maintenance for an ADP or telecommunications system containing or supporting records in the system.

5. To an individual or organization for a research, demonstration, evaluation, or epidemiologic project related to the prevention of disease or disability or the restoration of health if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided collected, or obtained;

b. Determines that the research purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form, and

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use would be accomplished.

c. Requires the recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Makes no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual, or

(b) For use in another research project, under these same conditions, and with the written authorization of HCFA, or

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law;

d. Secures a written statement attesting to the recipient's

understanding of a willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic tape.

RETRIEVABILITY:

Information will be retrieved by beneficiary's name and health insurance claim number.

SAFEGUARDS:

The contractor will maintain all records in secure storage areas accessible only to authorized employees and will notify all employees having access to records of criminal sanctions for unauthorized disclosure of information on individuals. For computerized records, the contractor will initiate automated data processing (ADP) system security procedures required by the HHS *Information Resources Manual* (e.g., use of passwords) and the National Bureau of Standards Federal Information Processing Standards. Similar safeguards will be followed if any records are transferred to HCFA.

RETENTION AND DISPOSAL:

Hardcopy data collection forms and magnetic tapes with identifiers will be retained in secure storage areas. Records will be retained for one year after the termination of the monitoring contract. The disposal techniques of degaussing will be used to strip magnetic tape of identifying names and numbers. Hardcopy records will be destroyed at this time.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Research and Demonstrations, Health Care Financing Administration, 2230 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURE:

Inquiries and requests for system records should be addressed to the system manager at the address indicated above. The requestor must specify the name, address, and health insurance number.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requestors should reasonably specify the record contents being sought. These procedures are in accordance with Department Regulations 45 CFR 5b.6.

CONTESTING RECORD PROCEDURES:

Contact the system manager named above and reasonably identify the record and specify the information to be contested. State the reason for contesting it (e.g., why it is inaccurate, irrelevant, incomplete, or not current). These procedures are in accordance with Department Regulations, 45 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Sources of information contained in this records system are expected to include: Data collected from the Medicare claims files; Medicare Statistical Systems; HHA plans of treatment and related patient records; supplemental patient intake forms prepared by the HHAs; and results of quality assessments conducted by PROs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 90–18689 Filed 8–8–90; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

National Center for Research Resources; Meeting of the National Advisory Research Resources Council

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Research Resources Council (NARRC), National Center for Research Resources (NCRR), at the National Institutes of Health.

This meeting will be open to the public, as indicated below, during which time there will be discussions on administrative matters such as previous meeting minutes; the report of the Director, NCRR; and review of budget and legislative updates. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552(c)(4) and 552b(c)(6), title 5, U.S. Code and section 10(d) of Public Law 92-463, the meeting will be closed to the public as listed below for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Date of Meeting: September 13–14, 1990.

Place of Meeting: National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland, 20892.

Open: Planning and Agenda Subcommittee: September 13, 7:30 a.m. until 8:45 a.m., Conference room 1B63, Building 31.

Council Meeting: September 13, 9 a.m. until recess. Conference room 10, Building 31C.

September 14, 8:30 a.m. until 11 a.m., Conference room 10, Building 31C.

Closed: September 14, 11 a.m. until adjournment, Conference room 10, Building 31C.

Mr. James J. Doherty, Information Officer, NCRR, Westwood Building, room 10A15, National Institutes of Health, Bethesda, Maryland 20892, 301/496–5545, will provide a summary of the meeting and a roster of the Council members upon request. Dr. Judith Vaitukaitis, Acting Deputy Director for Extramural Research Resources, NCRR, Westwood Building, room 8A16, National Institutes of Health, Bethesda, Maryland 20892, 301/496–6023, will furnish substantive program information upon request, and will receive any comments pertaining to this announcement

(Catalog of Federal Domestic Assistance Program Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371, Biomedical Research Technology; 13.389 Research Centers in Minority Institutions, National Institutes of Health.)

Dated: July 31, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–18629 Filed 8–8–90; 8:45 am]

BILLING CODE 4140-01-M

National Center for Research Resources; Meetings of the Subcommittees of the Animal Resources Review Committee

Pursuant to Public Law 92–463, notice is hereby given of meetings of the Subcommittees of the Animal Resources Review Committee, National Center for Research Resources, National Institutes of Health.

These meetings will be open to the public as listed below for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meetings will be closed to the public as listed below for the review, discussion and evaluation of individual grant applications submitted to the Animal Resources Program. These applications

and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Subcommittee: Subcommittee on Primate Research Centers.

Date of Meeting: October 5, 1990.

Place of Meeting: The Colony Square Hotel, Peachtree and 14th Street, NE., Atlanta, GA 30361.

Open: October 5–8 a.m.–9 a.m.

Closed: October 5–9 a.m. Adjournment.

Name of Subcommittee: Subcommittee on Animal Resources.

Dates of Meeting: October 29–30, 1990.

Place of Meeting: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, Conference room 10, Bethesda, MD 20892.

Open: October 29–8 a.m.–9 a.m.

Closed: October 29–9 a.m.—Recess, October 30–8 a.m.—Adjournment.

Mr. James J. Doherty, Information Officer, National Center for Research Resources, 5333 Westbard Avenue, room 10A15, Bethesda, Maryland 20892, (301) 496–5545, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Arthur D. Schaerdel, Executive Secretary of the Animal Resources Review Committee, National Center for Research Resources, National Institutes of Health, 5333 Westbard Avenue, room 10A16, Bethesda, Maryland 20892, (301) 496–4390, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

Dated: July 30, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–18630 Filed 8–8–90; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting of the National Heart, Lung, and Blood Advisory Council

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, September 6–7, 1990, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference room 10, Bethesda, Maryland 20892.

To Council meeting will be open to the public on September 6 from 9 a.m. to approximately 3:30 p.m. for discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), title 5, U.S.C., section 10(d) of Public Law 92–463, the Council meeting will be closed to the public from approximately 3:30 p.m. on September 6 to adjournment on September 7 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the Council members.

Dr. Ronald G. Geller, Executive Secretary, National Heart, Lung, and Blood Advisory Council, Westwood Building, room 7A–17, National Institutes of Health, Bethesda, Maryland 20892, (301), 496–7416, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: July 30, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–18631 Filed 8–8–90; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meetings of the National Heart, Lung, and Blood Advisory Council and Its Research Subcommittee and Training Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, October 18–19, 1990, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference room 10, Bethesda, Maryland 20892. In addition, the Research Subcommittee and the Training Subcommittee of the above Council will meet together on October 17; in Building 31, Conference room 9.

The Council meeting will be open to the public on October 18 from 9 a.m. to approximately 3:30 p.m. for discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C., section 10(d) of Public Law 92–463, the Council meeting will be closed to the public from approximately 3:30 p.m. on October 18 to adjournment on October 19 for the review, discussion and evaluation of individual grant applications. The meeting of the Research Subcommittee and the Training Subcommittee of the above Council on October 17, will be closed from 1 p.m. to adjournment for the review, discussion, and evaluation of individual grant applications.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the Council members.

Dr. Donald G. Geller, Executive Secretary, National Heart, Lung, and Blood Advisory Council, Westwood Building, room 7A–15, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–7416, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources, Research, National Institutes of Health)

Dated: July 30, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–18632 Filed 8–8–90; 8:45 am]

BILLING CODE 4140–01–M

Office of Human Development Services

Agency Information Collection Under OMB Review

AGENCY: Office of Human Development Services, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Office of Human Development Services (OHDS) has submitted to the Office of Management and Budget (OMB) a request for approval of an information collection for Child Development Associate Scholarship Assistance Program.

ADDRESSES: Copies of the information collection request may be obtained from Larry Guerrero, OHDS Reports Clearance Officer, by calling (202) 245–6275.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Angela Antonelli, OMB Desk Officer for OHDS, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

Information on Document

Title: Child Development Associate Scholarship Assistance Program.

OMB No.: 0980–0192.

Description: Title VI of the Human Service Reauthorization Act (the Act) of September 1986, Public Law 99–425, authorizes funding to States to enable them to award scholarships to eligible individuals who are candidates for the Child Development Associate (CDA) national credential. These scholarships will be awarded to individuals whose income does not exceed the poverty line by more than 50 percent.

The Act contains two information collection requirements. Section 603(a) requires that a State must submit an application signed by the Chief Executive of the State. Section 605(a) requires that each State must submit an annual report to the Secretary. The annual report will provide information on the number of eligible individuals assisted under this grant program and their positions and salaries before and after receiving the CDA credential.

Annual Number of Respondents: 55.

Annual Frequency: 2.

Average Burden Hours Per Response: 75.

Total Burden Hours: 8,250.

Dated: August 1, 1990.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 90–18594 Filed 8–8–90; 8:45 am]

BILLING CODE 4130–01–M

Public Health Service

Office of the Assistant Secretary for Health; Privacy Act of 1974; Transfer of Systems of Records

AGENCY: Public Health Service, HHS.

ACTION: Publication of transfer of systems of records.

SUMMARY: In accordance with Office of Management and Budget Circular No. A–130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals," the Office of the Assistant Secretary for Health (OASH) in the Public Health Service (PHS) is publishing the transfer of three systems of records from OASH to the Agency for Health Care Policy and Research (AHCPR).

SUPPLEMENTARY INFORMATION: Public Law 101–239 established AHCPR as an independent agency of PHS on December 18, 1989, eliminating the National Center for Health Services Research and Health Care Technology Assessment in OASH. Therefore, we are transferring the following three systems from OASH to AHCPR, and deleting them from the OASH inventory of systems of records:

09–37–0015 National Center for Health Services Research and Health Care Technology Assessment (NCHSR) Grants Records System, HHS/OASH/NCHSR.

09–37–0019 National Medical Expenditure Survey, HHS/OASH/NCHSR.

09–37–0021 AIDS Cost and Service Utilization Survey (ACSUS) HHS/OASH/NCHSR.

AHCPR has renumbered and retitled the above systems as follows:

09–35–0001 Grants Records System, HHS/AHCPR/OPRM.

09–35–0002 National Medical Expenditure Survey, HHS/AHCPR/CGHSIR.

09–35–0003 AIDS Cost and Service Utilization Survey (ACSUS) HHS/AHCPR/CGHSER.

Dated: August 1, 1990.

Wilford J. Forbush,

Director, Office of Management.

[FR Doc. 90–18737 Filed 8–8–90; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Office for Equal Opportunity; Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the bureau clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1084–0021), Washington, DC 20503, telephone (202) 395–7340.

Title: Nondiscrimination on the Basis of Race, Color, or National Origin in Federally Assisted Programs of the Department of the Interior, 43 CFR part 17, subpart A.

OMB Approval Number: 1084–0021.

Abstract: The Department of the Interior's Title VI regulation provides authority for the Department to require recipients to keep and report civil rights compliance information regarding their operations. The regulation also requires recipients to provide written assurances as to their civil rights compliance status.

Bureau form number: None.

Frequency: On occasion.

Description of Respondents: State and local government agencies receiving Federal financial assistance from the Department of the Interior and any person who believes unlawful discrimination has occurred in a Federal assistance program of the Department.

Estimated completion time: 3 hours.

Annual responses: 309.

Annual burden hours: 2,754.

Bureau Clearance Officer: John Strylowski, 202–208–5345.

Dated: August 1, 1990.

Carmen R. Maymi,

Director, Office for Equal Opportunity

[FR Doc. 90–18679 Filed 8–8–90; 8:45 am]

BILLING CODE 4310–RE–M

Bureau of Land Management

[AA-610-00-4113-02]

Information Collection Submitted to Office of Management and Budget for Review Under Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004–0132), Washington, DC 20503, telephone 202–395–7340.

Title: Geothermal Resources Operations—General, 43 CFR Part 3260.

OMB Approval Number: (1004–0132).

Abstract: Data submitted by geothermal lessees and operators issued for agency approval of specific and/or additional operations on a well and to report the completion and/or progress of such additional work.

Bureau Form Numbers: 3260–2, 3260–3, 3260–4, 3260–5.

Frequency: Nonrecurring, on occasion, and monthly.

Description of Respondents: Lessees and operators of Federal geothermal leases and Indian geothermal contracts subject to BLM oversight.

Estimated Completion Time: 2 hours.

Annual Responses: 760.

Annual Burden Hours: 1,700.

Bureau Clearance Officer: (Alternate) Gerri Jenkins, 202–653–8853.

Dated: July 2, 1990.

Hillary A. Oden,

Assistant Director, Energy and Mineral Resources.

[FR Doc. 90–18673 Filed 8–8–90; 8:45 am]

BILLING CODE 4310-84-M

[AZ040-00-4331-02]

Call for Nominations for San Pedro Riparian National Conservation Area Advisory Committee

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for Nominations for the San Pedro Riparian National Conservation Area Advisory Committee.

SUMMARY: The purpose of this notice is to solicit public nominations to fill three positions whose terms expire this year on the Bureau of Land Management's San Pedro Riparian National Conservation Area Advisory Committee, which was established in 1989, pursuant to section 104 of the Arizona-Idaho Conservation Act of 1988, Public Law 100–696.

DATES: All nominations should be received by September 14, 1990.

ADDRESSES: Safford District, Bureau of Land Management, 425 E. 4th Street, Safford, Arizona.

FOR FURTHER INFORMATION CONTACT: Steve Knox, Acting San Pedro Project Manager, Bureau of Land Management, Box 9853, Rural Route 1, Huachuca City, Arizona 85616. Telephone (602) 457–2265; or Cindy Alvarez, Public Affairs Officer, Safford District, 425 E. 4th Street, Safford, Arizona 85546. Telephone (602) 428–4040.

SUPPLEMENTARY INFORMATION: The committee is comprised of seven members. Under the Committee's staggered-term arrangment, the terms of three members will expire on December 31, 1990. The current members may be reappointed, or new members may be appointed. However, the eligibility of current Committee members for reappointment may be affected by governing provisions in the Committee's Charter. The new terms will be for 3 years, ending December 31, 1993.

Appointments made by the Secretary of the Interior pursuant to this call will ensure continued representation of specific categories of interest on the Commitee. Nominees must be persons with recognized backgrounds in the following disciplines: Recreation, Water Resources and Archaeology.

The purpose of the Committee is to provide informed advice to the Bureau's Safford District Manager on the implementation of the comprehensive plan for the long-range management and protection of the San Pedro Riparian National Conservation Area, as required by section 103 of the Arizona-Idaho Conservation Act of 1988, Public Law 100–696.

Members will serve without salary, but will be reimbursed for travel and per diem expenses at current rates for Government employees.

The Committee normally will meet at least twice annually. Additional meetings may be called by the District Manager or his designee in connection with special needs for advice.

Persons wishing to nominate individuals or to be nominated to serve on the Committee should contact the Safford District Manager at the address below and provide the names, addresses, occupations, and other biographic data of qualified nominees.

Dated: August 2, 1990.

Frank Rowley,

Acting District Manager.

[FR Doc. 90–18672 Filed 8–8–90; 8:45 am]

BILLING CODE 4310-32-M

[ID-060-00-4410-11]

District Advisory Council Meeting; Coeur d'Alene, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: District Advisory Council Meeting.

SUMMARY: Notice is hereby given, in accordance with Public Law 92–463, that a meeting of the Coeur d'Alene District Advisory Council will be held on Monday, September 10, 1990. The meeting will begin at 9 a.m. and will be held at the BLM Coeur d'Alene District Office, 1808 North Third Street, Coeur d'Alene, Idaho.

The agenda items are: election of officers, update on the Lower Coeur d'Alene River mine waste study, update on the Buffalo Gulch mine project, briefing on proposed land acquisitions for recreational site development and updates on other land management issues.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 and noon on September 10, 1990, or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Coeur d'Alene District Office, 1808 North Third Street, Coeur d'Alene, Idaho 83814 by August 24, 1990.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours (7:45 a.m. to 4:30 p.m.) within 30 days after the meeting.

Dated: July 3, 1990.

Mert Lombard,

Acting District Manager.

[FR Doc. 90–18669 Filed 8–8–90; 8:45 am]

BILLING CODE 4310-GG-M

[NM-010-GPO-0117]

Albuquerque District Grazing Advisory Board Meeting; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Albuquerque District Grazing Advisory Board meeting.

SUMMARY: The BLM's Albuquerque District Grazing Advisory Board will meet on Wednesday, September 19, 1990, at 8:00 a.m. in the BLM District office, at 435 Montano NE, Albuquerque, New Mexico. The agenda for the meeting will include the following:

Introductory Remarks
Approval of the Minutes
Scenic Byways Program Update
AMP's in Priority Areas
FY 91 Project Final Review
Public Comment (11 a.m.)
Big Game Management During Drought

Dated: August 3, 1990.

Robert Dale,

District Manager.

[FR Doc. 90-18644 Filed 8-8-90; 8:45 am]

BILLING CODE 4310-FB-M

[OR-020-4410-08; GPO-337]

Advisory Council Meeting and Tour

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice, Burns District Advisory Council Meeting and Tour.

SUMMARY: Notice is hereby given in accordance with section 309 of the Federal Land Management and Policy Act of 1976, that a meeting and tour by the Burns District Advisory Council will be held on August 30 and 31, at the Burns District Office located on Highway 20, 3 miles west of Hines, Oregon. The meeting will begin at 9 a.m. on Thursday, August 30; the tour will leave the Burns District Office at 8 a.m. on Friday, August 31.

The agenda for the meeting will include: an update on the Three Rivers Resource Management Plan, status report on proposed geothermal test drilling near Fields, Oregon, a briefing on management of Steens Mountain, an update on drought conditions, and miscellaneous business.

The tour will vist various locations in the Andrews Resource Area which relate to management issues discussed at the previous day's meeting.

DATES: The meeting will begin at 9 a.m. and adjourn by 5 p.m. Pacific Standard Time on Thursday, August 30 and the field tour will begin at 8 a.m. and conclude at the District Office by 6 p.m. on August 31.

FOR FURTHER INFORMATION CONTACT: Donald R. Cain, Acting District Manager, Bureau of Land Management, HC 74-12533, Highway 20 West, Hines, Oregon 97738. (Telephone 503-573-5241)

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Interested persons may make oral statements to the Council at the end of the meeting or file written statements for the Council's consideration. Anyone desiring to make an oral statement must notify the District Manager, Bureau of Land Management at the above address by August 27, 1990.

The tour will be open to the general public. However, interested persons will need to provide their own transportation and meals. Road conditions will require vehicles with high clearance. Individuals wishing to attend should contact the Burns District Office at the above address.

Dated: July 23, 1990.

Donald R. Cain,

Acting District Manager.

[FR Doc. 90-18582 Filed 8-8-90; 8:45 am]

BILLING CODE 4310-33-M

[CA-010-00-4333-13]

Road Closure Order, Merced River Area, Mariposa County, CA; Folsom Resource Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Order to close portions of the old Merced River railroad grade on public land in Mariposa County, California, to all motor vehicles.

SUMMARY: This action closes to motor vehicular use portions of the historical railroad bed along the Merced River on public land administered by the Bureau of Land Management in Mariposa County, California. Specifically that portion of the railroad bed found in T.4S., R.17E., sections 1, 2, 5, 6, 8, 9, 10, and 11, and T.4S., R.18E., Sect 1 and 6 between the high water mark of Lake McClure, east of Bagby, California, and the campground area known as Railroad Flat in the Merced River Canyon west of Briceburg, California; also, that portion of the railroad bed in T.35S., R.18E., Sections 25, 35, and 36, and T.4S., R.18E., Sect 2, 3, and 10 between Briceburg, California, and the U.S. Forest Service boundary line east of Briceburg, California. The reason for this closure is that these portions of the railroad bed will be designated as a historical and recreational trail and motorized use is not compatible with this designation. At present these portions are largely inaccessible to motor vehicles. The old railroad bed affected by this closure order is not considered safe for public use in motor vehicles. This order will close the road to all motor vehicle use except for administrative and rehabilitative purposes and those private land owners with right-of-way grants. Federal, State and local law enforcement officers are exempt from this order in the course of their official duties under emergency circumstances. This closure will take effect immediately and will be permanent. Authority for this closure order is contained in 43 CFR 8364.1. Penalties for violation of this order are contained in 43 CFR 8360.0-7.

FOR FURTHER INFORMATION CONTACT: Deane Swickard, Area Manager, Folsom Resource Area, Bureau of Land Management, 63 Natoma St., Folsom, California 95630; (916) 985-4474.

Dated: August 1, 1990.

Mike G. Kelley,

Acting Area Manager.

[FR Doc. 90-18665 Filed 8-8-90; 8:45 am]

BILLING CODE 4310-JB-M

[UT-060-00-4212-24; UTU-66436]

Realty Action; Airport Conveyance of Public Lands in San Juan County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, UTU-66436, airport conveyance of public land in San Juan County, Utah.

SUMMARY: Notice is given to the Public that the following described parcels of public land have been examined and through the development of local land-use planning decisions based upon public input, resource considerations, regulations, and Bureau policies, have been found suitable for conveyance to San Juan County, Utah pursuant to section 516 of the Airport and Airway Improvement Act of 1982 (96 Stat. 692; 49 U.S.C. 2215):

Salt Lake Meridian, Utah

T. 38, S., R. 12 E.,
Sec. 34, Tract 37,
Sec. 35, Tract 37,
T. 39 S., R. 12 E.,
Sec. 3, Tract 37,
Encompassing 370.42 acres.

Publication of this notice in the **Federal Register** segregates the public land from the operation of the public land laws and the mining laws. The segregative effect will end upon issuance of a document of conveyance, or three hundred sixty-five (365) days from the date of the publication, whichever occurs first.

The terms, conditions, and covenants applicable to the conveyance are:

1. All minerals, including oil and gas, shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals. The Secretary of the Interior reserves the right to determine whether such mining and removal of minerals will interfere with the development, operation and maintenance of the airport.

2. A right-of-way will be reserved for ditches and canals constructed by the authority of the United States (Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945).

3. The conveyance of the land will be subject to all valid existing rights and reservations of record.

4. At the discretion of the Secretary of Transportation, the land shall revert to the United States in the event that the land is not developed for airport or airway purposes or used in a manner inconsistent with the terms of the conveyance. If only a portion of the land conveyed is not developed for airport purposes, or used in a manner inconsistent with the terms of the conveyance, only that specific part shall, at the discretion of the Secretary, revert to the United States.

5. A detailed list of covenants required by the Federal Aviation Administration to be included in the patent document is available for review at the offices listed below.

DATES: Until September 24, 1990, interested parties may submit comments to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532. Objections will be reviewed by the Utah State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

SUPPLEMENTARY INFORMATION: Additional information concerning the land and terms and conditions of the conveyance may be obtained from David L.Krouskop, Area Realty Specialist, San Juan Resource Area Office, 435 North Main, P.O. Box 7, Monticello, Utah 84535, (801) 587–2141, or from Brad Groesbeck, District Realty Specialist, Moab District Office, 82 East Dogwood, P.O. Box 970, Moab, Utah 84532, (801) 259–6111.

Dated: July 31, 1990.

Gene Nodine,

District Manager.

[FR Doc. 90–12667 Filed 8–8–90; 8:45 am]

BILLING CODE 4310-DQ-M

[CA-010-00-4333-13]

Amendment to Camping and Firearms Use Restriction, Merced River and Folsom Resource Area, CA

In the matter of: Amendment to "Camping and Firearms Use Restriction; Merced River and Folsom Resource Area, Bakersfield District, California" dated March 20, 1986, **Federal Register**, Volume 51, No. 54 (9721).

AGENCY: Bureau of Land Management, Interior.

ACTION: Delete that portion of the restriction that refers to "camping only in designated campsites". The remainder of the restriction order remains in effect.

SUMMARY: In 1986 it appeared necessary to restrict camping along the Merced River on public lands to designated campgrounds only. Since that time it has become apparent that allowing primitive or walk-in type camping, in certain areas along the Merced River, is desirable for the recreating public and impacts have been shown to be acceptable. On February 5, 1988 supplemental rules for the Merced River area were published in the **Federal Register**, Volume 53, No. 24 (3461). One of these rules prohibited camping upon the roadbed and associated pullout areas, and on the upslope side of the Merced River access road, but did not prohibit camping between the road bed and the river. Walkin or backpack type camping is allowed along the river between the road bed and the river. Thus, the 1986 restriction of camping only in designated campgrounds is not enforced and is not compatible to the existing management of allowing dispersed camping along the Merced River.

DATES: This amendment takes effect on the date of publication.

FOR FURTHER INFORMATION CONTACT: Deane K. Swickard, Area Manager, Folsom Resource area, 63 Natoma, Folsom, California 95630, (916) 985–4474.

Dated: August 1, 1990.

Mike G. Kelley,

Acting Area Manager.

[FR Doc. 90–18666 Filed 8–8–90; 8:45 am]

BILLING CODE 4310-JB-M

[MT-940-08-4520-11]

Land Resource Management; Survey Plat Filing in Montana

AGENCY: Bureau of Land Management, Montana State Office.

ACTION: Notice of filing of plats of survey.

SUMMARY: Plats of survey for the following described land accept June 29, 1990, will be officially filed in the Montana State Office, Billings, Montana effective 30 days after publication.

Principal Meridian, Montana

T. 28 N., R. 9 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines, Township 28 North, Range 9 West, Principal Meridian, Montana.

T. 28 N., R. 10 W.

The plat representing the dependent resurvey of portions of the east boundary, and a portion of the subdivisional lines, Township 28 North, Range 10 West, Principal Meridian, Montana.

T. 29 N., R. 8 W.

This plat, in two sheets, representing the dependent resurvey of a portion of the north boundary, and a portion of the subdivisional lines, Township 29 North, Range 8 West, Principal Meridian, Montana.

T. 29 N., R. 9 W.

The plat representing the dependent resurvey of a portion of the Seventh Standard Parallel North through Range 9 West, a portion of the Second Guide Meridian West through Township 29 North, and a portion of the subdivisional lines, Township 29 North, Range 9 West, Principal Meridian, Montana.

T. 30 N., R. 6 W.

This plat, in three sheets, representing the dependent resurvey of portions of the north and east boundaries, a portion of the subdivisional lines, and a portion of the subdivision of section 29, Township 30 North, Range 6 West, Principal Meridian, Montana.

T. 30 N., R. 7 W.

This plat, in two sheets, representing the dependent resurvey of portions of the east and west boundaries, and a portion of the subdivisional lines, Township 30 North, Range 7 West, Principal Meridian, Montana.

T. 30 N., R. 8 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines, Township 30 North, Range North, Range 8 West, Principal Meridian, Montana.

T. 31 N., R. 5 W.

The plat, in two sheets, representing the dependent resurvey of portions of the north and west boundaries, a portion of the subdivisional lines, and a portion of the subdivision of section 10 to 15, Township 31 North, Range 5 West, Principal Meridian, Montana.

The triplicate original of the above described plats will be immediately placed in the open files and will be available to the public as a matter of information. If a protest against any of these surveys as shown on these plats, is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. The protested plat and survey will not be officially filed until the day after all protests have been accepted or

dismissed and become final or appeals from the dismissal affirmed.

These surveys were executed at the request of the Bureau of Indian Affairs, Billings Area Office.

EFFECTIVE DATE: July 20, 1990.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: July 30, 1990.

Marvin LeNoue,

State Director.

[FR Doc. 90-18664 Filed 8-8-90; 8:45 am]

BILLING CODE 4310-DN-M

Bureau of Reclamation

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The Proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisons of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and the Office of Management and Budget, Paperwork Reduction Project (1006-0005), Washington, DC 20503, telephone 202-395-7340.

Title: Acreage Limitation—Bureau of Reclamation Rules and Regulations, 43 CFR Part 426.

OMB approval number: 1006-0005.

Abstract: The proposed information collection requires certain landholders to complete forms demonstrating their compliance with the acreage limitation provisions of Reclamation law. The forms establish each landholder's status with respect to landownership limitations, full cost pricing thresholds, lease requirements, and other provisions of Reclamation law.

Bureau Form Numbers: 7-2178 through 7-2181, 7-2183 through 7-2191, 7-2193 through 7-2199.

Frequency: annually, and when landholding changes occur.

Description of Respondents: Owners and lessees of land on Federal Reclamation projects.

Estimated Completion Time: 0.39 hours.

Annual Responses: 56,610.

Annual Burden Hours: 22,210.

Bureau Clearance Officer: Carolyn Hipps 303-236-6769.

Dated: August 6, 1990.

Joseph H. Hunter,

Acting Commissioner, Bureau of Reclamation.

[FR Doc. 90-18639 Filed 8-8-90; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Availability of Final Environmental Impact Statement on an Eight Year Experimental Program to Control Sea Lamprey in Lake Champlain

AGENCY: Fish and Wildlife Service (FWS), Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Final Environmental Impact Statement on an eight year experimental program to control sea lamprey in Lake Champlain is available for public review. Comments are requested.

ADDRESSES: Comments should be addressed to: Regional Director, (Attn: FFA), U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Center, MA 02158.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph Abele, Environmental Coordinator, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, MA 02158. Phone (617) 965-5100 X382.

SUPPLEMENTARY INFORMATION: The Fish and Wildlife Service (FWS), Department of the Interior, has prepared a Final Environmental Impact Statement on its proposal to conduct an eight year experimental program to control sea lamprey in Lake Champlain. The program would be conducted jointly between the FWS and the States of New York and Vermont.

The proposed action includes the use of chemical lampricides to treat Lake Champlain and tributary streams in which the sea lamprey spawn and develop. In their adult phase lamprey are parasitic, causing the death and disfigurement of game fish in the Lake. Implementation of the proposed action would increase the recreational fishing value of Lake Champlain and would be expected to make the Lake more acceptable for other purposes such as swimming.

Other alternatives examined include excluding some streams from treatment, the use of barriers to keep sea lamprey from migrating from streams into the Lake, and a no project alternative.

A number of Government agencies and several members of the general public contributed to the planning and evaluation of the proposal and to the preparation of the EIS. The Notice of Intent to prepare this EIS was published in the September 6, 1985 **Federal Register**. The Notice of Availability of the Draft EIS was published in the November 13, 1987 **Federal Register**. The public comment period on the DEIS was extended until December 1, 1990. Public meetings have been held in both Vermont and New York.

All agencies and individuals are urged to provide comments on the EIS. All comments must be received by September 10, 1990.

Copies of the EIS have been mailed to all recipients of the Draft EIS and are also available from the above address.

Dated: August 1, 1990.

Ronald E. Lambertson,

Regional Director.

[FR Doc. 90-18583 Filed 8-8-90; 8:45 am]

BILLING CODE 4310-55-M

North American Wetlands Conservation Council Meeting

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The North American Wetlands Conservation Council (Council) will meet on August 28 to review proposals for funding submitted pursuant to the North American Wetlands Conservation Act (Pub. L. 101-233, 103 Stat. 1968, December 13, 1989.) Upon completion of the Council's review, proposals will be ranked and submitted to the Migratory Bird Conservation Commission with recommendations for funding. The meeting is open to the public.

DATES: August 28, 1990.

ADDRESSES: The meeting on August 28 will be held in room 5160, Department of the Interior Building, 1849 C Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert G. Streeter, Coordinator, North American Wetlands Conservation Act, U.S. Fish and Wildlife Service, room 880-Arlington Square, Department of the Interior, Washington, DC 20240, telephone (703) 358-1784.

SUPPLEMENTARY INFORMATION: The North American Wetlands Conservation Council will meet in Washington, DC on August 28 at 9 a.m. in room 5160 of the Department of the Interior Building.

The meeting is to review and recommend proposals for funding to the Migratory Bird Conservation Commission pursuant to the North American Wetlands Conservation Act.

Dated: July 31, 1990.

Rollin D. Sparrowe,

Deputy Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service.

[FR Doc. 90-18577 Filed 8-8-90; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Information Collection Requirements for Form MMS-125, Well Summary Report

AGENCY: Minerals Management Service, Interior.

ACTION: Request for comments on the information collection requirements for Form MMS-125, Well Summary Report.

SUMMARY: The Minerals Management Service (MMS), as part of the continuing effort to reduce the paperwork and respondent burden required by the Paperwork Reduction Act of 1980 (Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*), provides the general public, industry, State, and other Federal Agencies an opportunity to comment on current and proposed information collection requirements. The MMS will evaluate all comments and will revise reporting and recordkeeping requirements, as appropriate, to minimize respondent burdens. This notice specifically requests comments regarding the information collection burdens imposed by MMS regulations on lessees who submit Form MMS-125, Well Summary Report. This form is submitted to MMS's District Supervisors for evaluation to be approved or disapproved based upon the adequacy of the equipment, materials, and/or procedures which the lessee plans to use during the conduct of production, well-completion, and well-workover operations, including recompletion and abandonment. It is also used to evaluate remedial action in the event of well-equipment failure or well-control loss.

The information provided on this form is necessary to enable MMS to ensure safety of operations; protection of the human, marine, and coastal environments; conervation of the natural resources in the Outer Continental Shelf (OCS); prevention of waste; and protection of correlative rights with respect to oil and gas and sulphur operations in the OCS. Comments will be used in the preparation of an information collection application to be submitted to the Office of Management and Budget (OMB) for approval of information collection and recordkeeping requirements.

DATES: Comments may be submitted on or before September 10, 1990.

ADDRESSES: Comments and suggestions on this information collection requirement should be submitted to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070-4817, with copies to the Bureau Clearance Officer; Mail Stop 2300; Parkway Atrium; 381 Elden Street; Herndon, Virginia 22070-4817, and to the Office of Management and Budget; Paperwork Reduction Project (1010-0046); Washington, DC 20503, telephone number (202) 395-7340.

FOR FURTHER INFORMATION CONTACT: Copies of the current and proposed information collection requirements and supporting material may be obtained by contacting Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; telephone (703) 787-1600 or (FTS) 393-1600-

SUPPLEMENTARY INFORMATION:

I. Background

The information collected under subpart D, Drilling Operations, § 250.66(b); subpart E, Well-Completion Operations, § 250.83(c); subpart F, Well-Workover Operations, § 250.103(d); and proposed subpart P, Sulphur Operations, § 250.274(b) and § 250.282(c)(1), is used by MMS to ascertain the conditions of a drilling site for the purpose of mitigating hazards inherent in drilling operations and to determine whether the drilling operation is being conducted in a safe and environmentally sound manner. The public had an opportunity to comment on the present information collection and reporting requirements for subparts D, E, and F during the restructuring and consolidation of the offshore operating regulations under 30 CFR part 250 (51 FR 9316, March 18, 1986). The comments received concerning Form MMS-330 contained in subparts D, E, and F were addressed in MMS's August 1988 request to OMB for approval of the information collection requirements. Information collection and reporting requirements for proposed subpart P were published for public comment on June 19, 1989 (54 FR 25758). The comments received concerning Form MMS-330 contained in proposed Subpart P were addressed in MMS's May 1989 request to OMB for approval of the information collection requirements. The information collection request for Form MMS-330 (OMB No. 1010-0046) was approved by OMB through August 31, 1991.

II. Current Actions

After consultation with MMS field personnel and industry representatives, MMS has decided there is a need to update and modernize the current OMB approved reporting forms used for collecting information related to oil and gas and sulphur drilling and production in the OCS. Therefore, MMS proposes to replace the currently approved Form MMS-330, Well (Re)Completion Report, with a new form, Form MMS-125, Well Summary Report. (See Figure 1 at the end of this document for a copy of Form MMS-125). Each data element was analyzed on Form MMS-330 to determine its use and function. As a result of this analysis, the production test data on Form MMS-330 (about 14 percent of the data elements) was eliminated and a new form, Form MMS-125, was developed. This information was removed because it was already being submitted on Form MMS-1868.

The burden hours for Form MMS-330 are currently 2,500 hours. It will take 10 percent less effort to complete the new Form MMS-125. Therefore, the total burden hours to complete Form MMS-125 are estimated to be 2,500 hours. Further reductions in the number of burden hours are anticipated once the necessary preparatory actions are completed and electronic data transfer initiated.

III. Request for Comments

The sections of subparts D, E, F, and proposed P that contain information collection requirements associated with proposed Form MMS-125 are listed below, along with MMS's estimates of the number of annual responses for the average lessee, completion time per response, recordkeeping hours per lessee, and total burden hours for each requirement. The total burden hours have been calculated by multiplying the completion time and recordkeeping hours by the number of different lessees (74) operating in all OCS Regions. The MMS requests comments from the oil and gas and sulphur industries and other interested parties on this information collection requirement, including comments regarding the clarity fo the information requirements, availability of required information, and frequency of collection.

1. Subpart D, "§ 250.66 Well records. (b) When drilling operations are suspended, or temporarily prohibited * * * the lessee shall, within 30 days after termination of the suspension or temporary prohibition or within 30 days after the completion of any activities related to the suspension or prohibition,

transmit to the District Supervisor duplicate copies of the records of all activities related to and conducted during the suspension or temporary prohibition on, or attached to, Form MMS–125, Well Summary Report, or Form MMS–124, as appropriate."

2. Subpart E, § 250.83 Approval and reporting of well-completion operations. (c) Within 30 days after completion, Form MMS–125, Well Summary Report, including a schematic of the tubing and subsurface equipment and the results of any well tests, shall be submitted to the District Supervisor."

3. Subpart F, "§ 250.103 Approval and reporting for well-workover operations. (d) Within 30 days after completing the well-workover operations, except routine operations, * * * Form MMS–125, Well Summary Report, shall be submitted to the District Supervisor and shall include the results of any well tests and a new schematic of the tubing subsurface equipment if any subsurface equipment has been changed."

4. Proposed Subpart P, "§ 250.274 Well records. (b) When drilling operations are suspended, or temporarily prohibited, * * * the lessee shall, within 30 days after termiantion of the suspension or temporary prohibition or within 30 days after the completion of any activities related to the suspension or prohibition, transmit to the District supervisor duplicate copies of the records of all activities related to and conducted during the suspension or temporary prohibition on, or attached to, Form MMS–125, Well Summary report, or Form MMS–124, Sundry Notices and Reports on Wells, as appropriate."

5. Proposed Subpart P, "§ 250.282 Approvals and reporting of well-completion and well-workover operations. (c)(1) Within 30 days after completion, Form MMS–125, including a schematic of the tubing and the results of any well tests, shall be submitted to the District Supervisor."

Public reporting burden for this collection is estimated to average 1 hour per response. How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, do you estimate it will require you to complete and submit the required form? The estimated number of responses per respondent is 30.4. There are no recordkeeping hours. Therefore, the estimated total annual information collection burden on lessees for Form MMS–125 is 2,250. (74 respondents x 30.4 responses per respondent = 2,250 annual responses x 1 hour per response = 2,250 total burden hours)

Comments submitted in response to this notice will be summarized and/or included in the information collection application submitted to OMB for approval of this information collection. These comments will also become a matter of public record.

Authority: Section 204, Pub. L. 95–372, 92 Stat 629 (43 U.S.C. 1334).

Dated: June 25, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

BILLING CODE 4310-MR-M

MINERALS MANAGEMENT SERVICE
WELL SUMMARY REPORT

1.1ST COMP. ___ RECOMPLETION ___ ABANDONMENT ___ CORRECTION ___	2. API WELL NUMBER	3. WELL NO.	4. MMS LEASE NUMBER	5. AREA NAME	6 BLOCK NUMBER
7. OPD NO.	8. FIELD NAME		11. OPERATOR NAME AND ADDRESS (SUBMITTING OFFICE)		
9. UNIT NUMBERS	10. MMS OPERATOR NUMBER				

12. WELL LOCATION AT SURFACE	13. LEASE NUMBER	14. AREA NAME	15 BLOCK NUMBER	16. OPD NUMBER
37. WELL LOCATION AT THE PRODUCING ZONE	38. LEASE NUMBER	39. AREA NAME	40. BLOCK NUMBER	41. OPD NUMBER

17. WELL LOCATION AT TOTAL DEPTH	42. WELL STATUS CODE	43. DATE WELL SUSPENDED COMPLETED, OR ABANDONED	44. DATE OF FIRST PRODUCTION	

23. SPUD DATE	45. DATE SIDETRACKED	46. DATE TD REACHED	24. SURVEYED MEASURED DEPTH	25. TRUE VERTICAL DEPTH

PERFORATED INTERVAL THIS COMPLETION

47. TOP (MD)	48. BOTTOM (MD)	49. TOP (TVD)	50. BOTTOM (TVD)	35.COMPLETION STATUS CODE

51. RESERVOIR NAME	52. NAMES(S) OF PRODUCING FORMATION(S) THIS COMPLETION

CASING RECORD

53.HOLE SIZE	54.CASING SIZE	55.CASING WEIGHT	56.GRADE	57.SETTING DEPTH MD	58.CEMENT TYPE	59. QUANTITY OF CEMENT

TUBING RECORD

60.HOLE SIZE	61.TUBING SZ.	62.TUBING WEIGHT	63.GRADE	64.SETTING DEPTH MD	65. PACKER SETTING DEPTH MD

Form MMS-125 (August 1990) (Superseded Form MMS-330 which will not be used)

Figure 1

LINER/SCREEN RECORD

66. HOLE SIZE	67. LINER SIZE	68. LINER WT.	69. GRADE	70. TOP MD	71. BOTTOM MD	72. CEMENT TYPE	73. CEMENT QUANTITY

ACID, FRACTURE, CEMENT SQUEEZE, PLUGGING PROGAM, ETC.

DEPTH INTERVAL			
74. TOP MD	75. BOTTOM MD	76. TYPE OF MATERIAL	77. MATERIAL QUANTITY

78. LIST OF ELECTRIC AND OTHER LOGS RUN

79. SUMMARY OF POROUS ZONES: SHOW ALL ZONES CONTAINING HYDROCARBONS; ALL CORED INTERVALS; AND ATTACH ALL DRILL STEM AND WELL POTENTIAL TESTS.

80. FORMATION	TOP		BOTTOM		85. DESCRIPTION, CONTENTS, ETC.
	81. MD	82. TVD	83. MD	84. TVD	

86. GEOLOGIC MARKERS	TOP		86. GEOLOGIC MARKERS	TOP	
	87. MD	88. TVD		87. MD	88. TVD

27. CONTACT NAME	28. PHONE
29. AUTHORIZING OFFICIAL	30. TITLE
31 AUTHORIZING SIGNATURE	32. DATE

PAPERWORK REDUCTION ACT STATEMENT

[FR Doc. 90-18659 Filed 8-8-90; 8:45 am]
BILLING CODE 4310-MR-C

Information Collection Requirements for Form MMS–126, Well Potential Test Report and Request for Maximum Production Rate

AGENCY: Minerals Management Service, Interior.

ACTION: Request for comments on the information collection requirements for Form MMS–126, Well Potential Test Report and Request for Maximum Production Rate.

SUMMARY: The Minerals Management Service (MMS), as part of its continuing effort to reduce the paperwork and respondent burden required by the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*), provides the general public, industry, State, and other Federal Agencies an opportunity to comment on current and proposed information collection requirements. The MMS will evaluate all comments and will revise reporting and recordkeeping requirements, as appropriate, to minimize respondent burdens. This notice specifically requests comments regarding the information collection burdens imposed by MMS regulations on lessees who will submit Form MMS–126, Well Potential Test Report and request for Maximum Production Rate (MPR). The MMS Regional Supervisors will use this form to determine the MPR for an oil or gas well. The form contains information concerning the conditions and results of a well-potential test. This requirement implements the conservation provisions of the Outer Continental Shelf (OCS) Lands Act and 30 CFR part 250.

This notice also addresses the proposed deletion of Form MMS–1867, Request for Well Maximum Production Rate (MPR), in subpart K, § 250.172(b)(2). The information submitted on Form MMS–1867 would be reported on Form MMS–126. The language for § 250.172 would be revised accordingly in a rulemaking.

The information provided on this form is necessary to enable MMS to ensure safety of operations; protection of the human, marine, and coastal environments; conservation of the natural resources in the OCS; prevention of waste; and protection of correlative rights with respect to oil and gas and sulphur operations in the OCS. Comments will be used in the preparation of an information collection application to be submitted to the Office of Management and Budget (OMB) for approval of information collection and recordkeeping requirements.

DATES: Comments may be submitted on or before September 10, 1990.

ADDRESSES: Comments and suggestions on this information collection requirement should be submitted to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817, with copies to the Bureau Clearance Officer; Mail Stop 2300; Parkway Atrium; 381 Elden Street; Herndon, Virginia 22070–4817, and to the Office of Management and Budget; Paperwork Reduction Project (1010–0039); Washington, DC 20503, telephone number (202) 395–7340.

FOR FURTHER INFORMATION CONTACT: Copies of the current and proposed information collection requirements and supporting material may be obtained by contacting Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; telephone (703) 787–1600 or (FTS) 393–1600.

SUPPLEMENTARY INFORMATION:

I. Background

The information collected under subpart K, Production Rates, § 250.172(b)(2), is essential to MMS in order to establish an appropriate MPR for a well. The public had an opportunity to comment on the present information collection and reporting requirements for subpart K during the restructuring and consolidation of the offshore operating regulations under 30 CFR part 250 (51 FR 9316, March 18, 1986). The comments received concerning Form MMS–1868 were addressed in MMS's October 1987 request to OMB for approval of the information collection requirements. The information collection requests for Forms MMS–1867 (OMB No. 1010–0019) and MMS–1868 (OMB No. 1010–0039) were approved by OMB through December 31, 1990.

II. Current Actions

After consultation with MMS field personnel and industry representatives, MMS has decided there is a need to update and modernize the current OMB approved reporting forms used for collecting information related to oil and gas and sulphur drilling and production in the OCS. Therefore, MMS proposes to combine the currently approved Form MMS–1868, Well Potential Test Report, and Form MMS–1867, Request for Well Maximum Production Rate (MPR), into a new form, Form MMS–126, Well Potential Test Report and Request for Maximum Production Rate. (See Figure 1 at the end of this document for a copy of Form MMS–126.) This change reduces the number of forms required to be submitted by the lessee but does not reduce the overall amount of information collected. Each data element was analyzed on Forms MMS–1867 and MMS–1868 to determine its use and function. As a result of this analysis, the two forms were combined into a new form, Form MMS–126. Three data elements from Form MMS–1867 (Present Well MPR, Requested Well MPR, and Effective Date) and all the data elements from Form MMS–1868 were used to develop the new Form MMS–126. This combination of data elements increased the information on the new Form MMS–126 by 14 percent. However, this increase in data elements does not increase the time to complete the new form by 14 percent. The effort to complete this additional information is increased by approximately 2 minutes (1.6 percent in burden hours or about 128 hours overall).

The burden hours for Forms MMS–1867 and MMS–1868 are currently 1,000 and 8,000, respectively, which equals 9,000 hours. The new Form MMS–126 is comprised of the 8,000 burden hours from Form MMS–1868 plus 128 hours for the additional data elements from Form MMS–1867. Therefore, the total burden hours to complete Form MMS–126 is estimated to be 8,128 hours. Further reductions in the number of burden hours are anticipated once the necessary preparatory actions are completed and electronic data transfer initiated.

III. Request for Comments

The proposed revised section of subpart K that contains information collection requirements associated with proposed Form MMS–126 is listed below, along with MMS's estimates of the number of annual responses for the average lessee, completion time per response, recordkeeping hours per lessee, and total burden hours for each requirement. The total burden hours have been calculated by multiplying the completion time and recordkeeping hours by the number of different lessees (74) operating in all OCS Regions. The MMS requests comments from the oil and gas and sulphur industries and other interested parties on this information collection requirement, including comments regarding the clarity of the information requirements, availability of required information, and frequency of collection.

Subpart K, proposed "§ 250.172 Oil and gas production rates.

(b)(2) The lessee shall conduct a well-flow potential test on all new, recompleted, and reworked well completions within 30 days of the date

of first continuous production. Within 15 days after the end of the test period, the lessee shall submit a proposed MPR for the individual well completion with the results of the well-flow potential test on Form MMS–126, Well Potential Test Report and Request for Maximum Production Rate * * * During the 30-day period allowed for testing, the lessee may produce a new, recompleted, or reworked completion at rates necessary to establish the MPR. After the 30-day period and prior to approval of the initial MPR, a well completion may be produced at a rate not to exceed the proposed rate. The lessee shall report the total production obtained during the test period of Form MMS–126 and shall identify in the remarks section of the form all wells completed in the reservoir."

Public reporting burden for this collection is estimated to average 2 hours per response. How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, do you estimate it will require you to complete and submit the required form? The estimated number of responses per respondent, is 54.1. There are no recordkeeping hours. Therefore, the estimated total annual information collection burden on lessees for Form MMS–126 is 8,128.

(74 respondents × 54.1 responses per respondent = 4,000 annual responses × 2 hours per response (rounded off) = 8,128 total burden hours)

Comments submitted in response to this notice will be summarized and/or included in the information collection application submitted to OMB for approval of this information collection. These comments will also become a matter of public record.

Authority: Section 204, Pub. L. 95–372, 92 Stat. 629 (43 U.S.C. 1334).

Dated: June 29, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

BILLING CODE 4310-MR-M

MINERALS MANAGEMENT SERVICE
WELL POTENTIAL TEST REPORT AND MAXIMUM PRODUCTION RATE REQUEST

1 ORIGINAL ___ CORRECTION ___	2. API WELL NUMBER	3 WELL NO	4 MMS LEASE NUMBER	5 AREA NAME	6 BLOCK NUMBER
7. OPD NO	8. FIELD NAME		11 OPERATOR NAME AND ADDRESS (SUBMITTING OFFICE)		
9. UNIT NUMBERS	10 MMS OPERATOR NUMBER				

89. TYPE OF WELL OIL ( ) GAS ( )	90. TYPE OF TEST INITIAL MPR ___ RESTABLISH MPR ___ RECLASSIFY WELL ___	51. RESERVOIR NAME	44. DATE OF FIRST PROD.	91 DATE OF TEST	92. HOURS TESTED	93. PRODUCTION METHOD

94. CHOKE SIZE	95. PRETEST TIME	96. FLOWING TUBING PRESSURE	97. SHUT-IN WELL-HEAD PRESSURE	98. LINE PRESSURE	99 STATIC BOTTOM-HOLE PRESSURE

PERFORATED INTERVAL THIS TEST

100. TOP MD	101. BOTTOM MD	102 ATTACHMENTS: LOG SECTION ___ RESERVOIR STRUCTURE MAP ___ OTHER (LIST) ___ ___ ___ ___ ___ ___

PRODUCTION DURING TEST

103. OIL (BBLS)	104. GAS (MCF)	105 WATER (BBLS)	106. BS&W (%)	107 API OIL GRAVITY	108 SP GR GAS

CUMULATIVE WELL PRODUCTION DURING APPROVED TESTING PERIOD

109. OIL (BBLS)	110. GAS (MCF)	111. WATER (BBLS)	112. DATE TEST PERIOD COMMENCED	113. DATE TEST PERIOD ENDED	114 CURRENT MPR	115 REQUESTED MPR

116. ACTIVE COMPLETIONS IN RESERVOIR (API WELL NO., LEASE NO., AND COMPLETION NO.) (ATTACH ADDITIONAL SHEET IF NECESSARY)

1.	4.
2.	5.
3.	6.

117. REMARKS

29. AUTHORIZING OFFICIAL	30 TITLE
31. AUTHORIZING SIGNATURE	32. DATE
APPROVED MPR	EFFECTIVE DATE FOR APPROVED MPR
APPROVED BY	DATE

PAPERWORK REDUCTION ACT STATEMENT

Form MMS-126 (August 1990) (Supersedes Forms MMS-1967 and MMS 1868 which will not be used) Figure 1

[FR Doc. 90-18660 Filed 8-8-90; 8:45 am]
BILLING CODE 4310-MR-C

Information Collection Requirements for Form MMS–123, Application for Permit to Drill

AGENCY: Minerals Management Service, Interior.

ACTION: Request for comments on the information collection requirements for Form MMS–123, Application for Permit to Drill.

SUMMARY: The Minerals Management Service (MMS), as part of its continuing effort to reduce the paperwork and respondent burden required by the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*), provides the general public, industry, State, and other Federal Agencies an opportunity to comment on current and proposed information collection requirements. The MMS will evaluate all comments and will revise reporting and recordkeeping requirements, as appropriate, to minimize respondent burdens. This notice specifically requests comments regarding the information collection burdens imposed by MMS regulations on lessees who submit Form MMS–123, Application for Permit to Drill. This form is submitted to MMS's District Supervisors for evaluation to be approved or disapproved based upon the adequacy of the equipment, materials, and/or procedures which the lessee plans to use to safely perform drilling, well-completion, well-workover, and well-abandonment operations.

The information provided on this form is necessary to enable MMS to ensure safety of operations; protection of the human, marine, and coastal environments; conservation of the natural resources in the Outer Continental Shelf (OCS); prevention of waste; and protection of correlative rights with respect to oil and gas and sulphur operations in the OCS. Comments will be used in the preparation of an information collection application to be submitted to the Office of Management and Budget (OMB) for approval of information collection and recordkeeping requirements.

DATES: Comments may be submitted on or after September 10, 1990.

ADDRESSES: Comments and suggestions on this information collection requirement should be submitted to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817, with copies to the Bureau Clearance Officer; Mail Stop 2300; Parkway Atrium; 381 Elden Street; Herndon, Virginia 22070–4817, and to the Office of Management and Budget; Paperwork Reduction Project (1010–0044); Washington, DC 20503, telephone number (202) 395–7340.

FOR FURTHER INFORMATION CONTACT: Copies of the current and proposed information collection requirements and supporting material may be obtained by contacting Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards, telephone (703) 787–1600 or (FTS) 393–1600.

SUPPLEMENTARY INFORMATION:

I. Background

The information collected under Subpart D, Drilling Operations, § 250.64 (a) through (g); Subpart E, Well-Completion Operations, § 250.83 (a) and (b) and proposed subpart P, Sulphur Operations, § 250.272 (a) through (d), is used by MMS to ascertain the conditions of a drilling site for the purpose of mitigating hazards inherent in drilling operations and to determine whether the drilling operation is being conducted in a safe and environmentally sound manner. The public had an opportunity to comment on the present information collection and reporting requirements for subparts D and E during the restructuring and consolidation of the offshore operating regulations under 30 CFR part 250 (51 FR 9316, March 18, 1986). The comments received concerning Form MMS–331C contained in subpart D and E were addressed in MMS's October 1987 request to OMB for approval of the information collection requirements. Information collection and reporting requirements for proposed subpart P were published for public comment on June 19, 1989 (54 FR 25758). The comments received concerning Form MMS–331C contained in proposed subpart P were addressed in MMS's May 1989 request to OMB for approval of the information collection requirements. The information collection request for Form MMS–331C (OMB No. 1010–0044) was approved by OMB through January 31, 1991.

II. Current Actions

After consultation with MMS field personnel and industry representatives, MMS has decided there is a need to update and modernize the current OMB approved reporting forms used for collecting information related to oil and gas and sulphur drilling and production in the OCS. Therefore, MMS proposes to replace the currently approved Form MMS–331C, Application for Permit to Drill, with a new form, Form MMS–123, Application for Permit to Drill. (See Figure 1 at the end of this document for a copy of Form MMS–123.) Each data element was analyzed on Form MMS–331C to determine its use and function. As a result of this analysis, a summary of the proposed casing and cementing program as well as casing design safety factors were eliminated from Form MMS–331C. These data elements were removed because they are already included in the detailed well prognosis report which is attached to Form MMS–331C. Also, elimination of this information on Form MMS–331C resulted in a 19 percent reduction of data elements. However, this reduction in data elements on Form MMS–331C does not decrease the time to complete the new form by 19 percent.

The burden hours for Form MMS–331C are currently 565 hours. It will take 5 percent less effort to complete the new Form MMS–123. Therefore, the total burden hours to completed Form MMS–123 are estimated to be 537 hours. Further reduction in the number of burden hours are anticipated once the necessary preparatory actions are completed and electronic data transfer initiated.

III. Request for Comments

The sections of subparts D, E, and proposed P that contain information collection requirements associated with proposed Form MMS–123 are listed below, along with MMS's estimates of the number of annual responses for the average lessee, completion time per response, recordkeeping hours per lessee, and total burden hours for each requirement. The total burden hours have been calculated by multiplying the completion time and recordkeeping hours by the number of different lessees (74) operating in all OCS Regions. The MMS requests comments from the oil and gas and sulphur industries and other interested parties on this information collection requirement, including comments regarding the clarity of the information requirements, availability of required information, and frequency of collection.

1. Subpart D, "§ 250.64 Applications for permit to drill.

(a) Prior to the initial drilling of a well under an approved Exploration Plan, Development and Production Plan, or Development Operations Coordination Document, the lessee shall file a Form MMS–123, APD, with the District Supervisor for approval * * *.

(b) The APD's for wells to be drilled from mobile drilling units shall include the following:

(1) An identification of the maximum environmental and operational

conditions the rig is designed to withstand.

(2) Applicable current documentation of operational limitations imposed by the American Bureau of Shipping classification or other appropriate classification society and either a U.S. Coast Guard Certificate of Inspection or a U.S. Coast Guard Letter of Compliance.

(3) For frontier areas, the design and operating limitations beyond which suspension, curtailment, or modification of drilling or rig operations are required (e.g., vessel motion, offset, riser angle, anchor tensions, wind speed, wave height, currents, icing or ice-loading, settling, tilt or lateral movement, resupply capability) and the contingency plans which identify actions to be taken prior to exceeding the design or operating limitations of the rig.

(4) A program which provides for safety in drilling operations where a floating or semisubmersible type of drilling vessel is used and formation competency at the structural and/or conductor casing setting depth(s) is (are) not adequate to permit circulation of drilling fluids to the vessel while drilling the conductor and/or surface hole. This program shall include all known pertinent information including seismic and geologic data, water depth, drilling-fluid hydrostatic pressure, a schematic diagram indicating the equipment to be installed from the rotary table to the proposed conductor and/or surface casing seat(s), and the contingency plan for moving off location.

(c) The PPD's shall include rated capacities of the proposed drilling unit and of major drilling equipment.

(d) In those areas which are subject to subfreezing conditions, the lessee shall furnish evidence that the drilling equipment, BOP system and components, drilling safety systems, diverter systems, and other associated equipment and materials are suitable for drilling operations under subfreezing conditions.

(e) After a drilling unit has been approved * * * the information listed in paragraphs (b)(1), (2), and (3), (c), and (d) of this section need not be resubmitted unless required by the District Supervisor or there are changes in equipment that affect the rated capacity of the unit.

(f) An APD shall include the following in addition to a fully completed Form MMS–123:

(1) A plat, drawn to a scale of 2,000 feet to the inch, showing the surface and subsurface location of the well to be drilled and of all the wells previously drilled in the vicinity from which information is available. Locations shall be indicated in feet from the block line.

(2) The design criteria considered for the well and for well control, including the following:

(i) Pore pressures.

(ii) Formation fracture gradients.

(iii) Potential lost circulation zones.

(iv) Mud weights.

(v) Casing setting depths.

(vi) Anticipated surface pressures * * * the lessee shall take into account the drilling, completion, and production conditions. The lessee shall consider mud densities to be used below various casing strings, fracture gradients of the exposed formations, casing setting depths, total well depth, formation fluid type, and other pertinent conditions * * * The lessee shall include as a part of the statement of anticipated surface pressures the calculations used to determine these pressures during the drilling phase and the completion phase, including the anticipated surface pressure used for production string design.

(vii) If a shallow hazards site survey is conducted, the lessee shall submit with or prior to the submittal of the APD, two copies of a summary report describing the geological and manmade conditions present. The lessee shall also submit two copies of the site maps and data records identified in the survey strategy.

(viii) Permafrost zones, if applicable.

(3) A BOP equipment program including the following:

(i) The pressure rating of BOP equipment.

(ii) A well-control procedure for use of the annular preventer for those wells where the anticipated surface pressure exceeds the rated working pressure of the annular preventer.

(iii) A description of subsea BOP accumulator system or other type of closing system proposed for use.

(iv) A schematic drawing of the diverter system to be used (plan and elevation views) showing spool outlet internal diameter(s); diverter-line lengths and diameters, burst strengths, and radius of curvature at each turn; valve type, size, working pressure rating, and location; the control instrumentation logic; and the operating procedure to be used by lessee or contractor personnel.

(v) A schematic drawing of the BOP stack showing the inside diameter of the BOP stack, and the number of annular, pipe ram, variable-bore pipe ram,, blind ram, and blind-shear ram preventers.

(4) A casing program including the following:

(i) Casing size, weight, grade, type of connection, and setting depth;

(ii) Casing design safety factors for tension, collapse, and burst with the assumptions made to arrive at these values; and

(iii) In areas containing permafrost, casing programs that incorporate setting depths for conductor and surface casing based on the anticipated depth of the permafrost and the proposed well location and which utilize the current state-of-the-art methods to safely drill and set casing. The casing program shall provide protection from thaw subsidence and freezeback effect, proper anchorage, and well control.

(5) The drilling prognosis including the following:

(i) Projected plans for coring at specified depths;

(ii) Projected plans for logging;

(iii) Estimated depths to the top of significant marker formations; and

(iv) Estimated depths at which encounters with significant porous and permeable zones containing fresh water, oil, gas, or abnormally pressured water are expected.

(6) A cementing program including type and amount of cement in cubic feet to be used for each casing string.

(7) A mud program including the minimum quantities of mud and mud materials, including weight materials, to be kept at the site.

(8) A directional survey program for directionally drilled wells.

(9) A plot of the estimated pore pressures and formation fracture gradients and the proposed mud weights and casing setting depths on the same sheet.

(10) A H_2S Contingency Plan, if applicable, and not submitted previously.

(11) Such other information as may be required by the District Supervisor.

(g) Public information copies of the APD shall be submitted in accordance with § 250.17 of this part."

2. Subpart E, "§ 250.83 Approval and reporting of well-completion operations.

(a) No well completion operation shall begin until the lessee receives written approval from the District Supervisor. If completion is planned and the data are available at the time the Application for Permit to Drill, Form MMS–123 * * * is submitted, approval for a well completion may be requested on that form. * * *.

(b) The following information shall be submitted with Form MMS–124 (or with Form MMS–123):

(1) A brief description of the well-completion procedures to be followed, a statement of the expected surface pressure, and type and weight of completion fluids;

(2) A schematic drawing of the well showing the proposed producing zone(s) and the subsurface well-completion equipment to be used;

(3) For multiple completions, a partial electric log showing the zones proposed for completion, if logs have not been previously submitted; and

(4) When the well-completion is in a zone known to contain H_2S or a zone where the presence of H_2S is unknown, information pursuant to § 250.67 of this part."

3. Proposed subpart P, "§ 250.272 Application for permit to drill.

(a) Prior to commencing the drilling of a well under an approved Exploration Plan, Development and Production Plan, or Development Operations Coordination Document, the lessee shall file Form MMS–123, APD, with the District Supervisor for approval * * *.

(b) An APD shall include related capacities of the proposed drilling unit and of major drilling equipment. After a drilling unit has been approved * * * the information need not be resubmitted unless required by the District Supervisor or there are changes in the equipment that affect the rated capacity of the unit.

(c) An APD shall include a fully completed Form MMS–123 and the following:

(1) A plat, drawn to a scale of 2,000 feet to the inch, showing the surface and subsurface location of the well to be drilled and of all the wells previously drilled in the vicinity from which information is available. For development wells on a lease, the previously drilled wells in the vicinity need not be shown on the plat. Locations shall be indicated in feet from the block line.

(2) The design criteria considered for the well and for well control, including the following:

(i) Pore pressure;

(ii) Formation fracture gradients;

(iii) Potential lost circulation zones;

(iv) Mud weights;

(v) Casing setting depths;

(vi) Anticipated surface pressure * * * the lessee shall take into account the drilling, completion, and production conditions. The lessee shall consider mud densities to be used below various casing strings, fracture gradients of the exposed formations, casing setting depths, total well depth, formation fluid type, and other pertinent conditions * * * The lessee shall include as a part of the statement of anticipated surface pressure the calculations used to determine this pressure during the drilling phase and the completion phase, including the anticipated surface pressure used for production string design; and

(vii) If a shallow hazards site survey is conducted, the lessee shall submit with or prior to the submittal of the APD, two copies of a summary report describing the geological and manmade conditions present. The lessee shall also submit two copies of the site maps and data records identified in the survey strategy.

(3) A BOP equipment program including the following:

(i) The pressure rating of BOP equipment,

(ii) A schematic drawing of the diverter system to be used (plan and elevation views) showing spool outlet internal diameter(s); diverter line lengths and diameters, burst strengths, and radius of curvature at each turn; valve type, size, working-pressure rating, and location; the control instrumentation logic; and the operating procedure to be used by personnel, and

(iii) A schematic drawing of the BOP stack showing the inside diameter of the BOP stack and the number of annular, pipe ram, variable-bore pipe ram, blind ram, and blind-shear ram preventers.

(4) A casing program including the following:

(i) Casing size, weight, grade, type of connection, and setting depth, and

(ii) Casing design safety factors for tension, collapse, and burst with the assumptions made to arrive at these values.

(5) The drilling prognosis including the following:

(i) Estimated coring intervals,

(ii) Estimated depths to the top of significant marker formations, and

(iii) Estimated depths at which encounters with fresh water, sulphur, oil, gas, or abnormally pressured water are expected.

(6) A Cementing program including type and amount of cement in cubic feet to be used for each casing string;

(7) A mud program including the minimum quantities of mud and mud materials, including weight materials, to be kept at the site;

(8) A directional survey program for directionally drilled wells;

(9) An H_2S Contingency Plan, if applicable, and not submitted previously.

(10) Such other information as may be required by the District Supervisor.

(d) Public information copies of the APD shall be submitted in accordance with § 250.17 of this part."

Public reporting burden for this collection is estimated to average one-half hour per response. How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, do you estimate it will require you to complete and submit the required form? The estimated number of responses per respondent is 14.5. There are no recordkeeping hours. Therefore, the estimated total annual information collection burden on lessees for Form MMS–123 is 537.

(74 respondents × 14.5 responses per respondent = 1,074 annual responses × one-half hour per response = 537 total burden hours).

Comments submitted in response to this notice will be summarized and/or included in the information collection application submitted to OMB for approval of this information collection. These comments will also become a matter of public record.

Authority: Section 204, Pub. L. 95–372, 92 Stat. 629 (43 U.S.C. 1334).

Dated: June 25, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

BILLING CODE 4310-MR-M

MINERALS MANAGEMENT SERVICE
APPLICATION FOR PERMIT TO DRILL (APD)

1. ORIGINAL ___ CORRECTION ___	2. API WELL NUMBER	3. WELL NO.	4. MMS LEASE NUMBER	5. AREA NAME	6. BLOCK NUMBER
7. OPD NO.	8. FIELD NAME		11. OPERATOR NAME AND ADDRESS (SUBMITTING OFFICE)		
9. UNIT NUMBERS	10. MMS OPERATOR NUMBER				

12. WELL LOCATION AT SURFACE	13 LEASE NUMBER	14. AREA NAME	15. BLOCK NO.	16. OPD NUMBER
17. WELL LOCATION AT TOTAL DEPTH	18. ESTIMATED WATER DEPTH	19. ESTIMATED ELEV AT KB	20. RIG NAME	21. RIG TYPE

22. TYPE OF WELL: EXPLORATORY ____ DEVELOPMENT ____	23. PROPOSED SPUD DATE	24. PROPOSED MEASURED DEPTH	25. PROPOSED TRUE VERTICAL DEPTH	

26. ATTACHMENTS (Attach complete well prognosis)

WARNING:

27. CONTACT NAME	28. PHONE
29. AUTHORIZING OFFICIAL	30. TITLE
31. AUTHORIZING SIGNATURE	32. DATE

THIS SPACE FOR MMS USE ONLY

APPROVED (WITH ATTACHED CONDITIONS _____) (WITHOUT CONDITIONS _____) BY _____ TITLE _____

DATE _____

API WELL NO. ASSIGNED TO THIS WELL _____

PAPERWORK REDUCTION ACT STATEMENT

Form MMS-123 (August 1990) (Supersedes Form MMS-331C which will not be used)

Figure 1

[FR Doc. 90-18663 Filed 8-8-90; 8:45 am]
BILLING CODE 4310-MR-C

Information Collection Requirements for Form MMS–128, Semiannual Well Test Report

AGENCY: Minerals Management Services, Interior.

ACTION: Request for comments on the information collection requirements for Form MMS–128, Semiannual Well Test Report.

SUMMARY: The Minerals Management Service (MMS), as part of its continuing effort to reduce the paperwork and respondent burden required by the Paperwork Reduction Act of 1980 (Public Law 96–511, 44 U.S.C. 3501 *et seq.*), provides the general public, industry, State, and other Federal Agencies an opportunity to comment on current and proposed information collection requirements. The MMS will evaluate all comments and will revise reporting and recordkeeping requirements, as appropriate, to minimize respondent burdens. This notice specifically requests comments regarding the information collection burdens imposed by MMS regulations on lessees who will submit Form MMS–128, Semiannual Well Test Report. The MMS Regional Supervisors in the Gulf of Mexico and Pacific Outer Continental Shelf (OCS) Regions will use this form to evaluate the results of well tests to ascertain if reservoirs are being depleted in a manner that will lead to the greatest ultimate recovery of hydrocarbons. The form is designed to present current well data on a semiannual basis to permit the updating of permissible producing rates and to provide the basis for estimates of currently remaining recoverable gas reserves.

This notice also addresses the proposed deletion of Forms MMS–1869, Quarterly Oil Well Test Report, and MMS–1870, Semiannual Gas Well Test Report, in subpart K, § 250.172(b)(3). The information submitted on Forms MMS–1869 and MMS–1870 would be reported on Form MMS–128. The language for § 250.172(b)(3) would be revised accordingly in a rulemaking.

The information to be provided on Form MMS–128 is necessary to enable MMS to ensure safety of operations; protection of the human, marine, and coastal environments; conservation of the natural resources in the OCS; prevention of waste; and protection of correlative rights with respect to oil and gas and sulphur operations in the OCS. Comments will be used in the preparation of an information collection application to be submitted to the Office of Management and Budget (OMB) for approval of information collection and recordkeeping requirements.

DATES: Comments may be submitted on or before September 10, 1990.

ADDRESSES: Comments and suggestions on this information collection requirement should be submitted to Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817, with copies to the Bureau Clearance Officer; Mail Stop 2300; Parkway Atrium; 381 Elden Street; Herndon, Virginia 22070–4817, and to the Office of Management and Budget; Paperwork Reduction Project (1010–0017); Washington, DC 20503, telephone number (202) 395–7340.

FOR FURTHER INFORMATION CONTACT: Copies of the current and proposed information collection requirements and supporting material may be obtained by contacting Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; telephone (703) 787–1600 or (FTS) 393–1600.

SUPPLEMENTARY INFORMATION:

I. Background

The information collected under subpart K, Production Rates, § 250.172(b)(3), is used by MMS to ascertain if reservoirs are being depleted in a manner that will lead to the greatest ultimate recovery. This information is collected to determine the capability of hydrocarbon wells. It is used to evaluate and verify an operator's approved maximum production rate for each well completion. The public had an opportunity to comment on the present information collection and reporting requirements for subpart K during the restructuring and consolidation of the offshore operating regulations under 30 CFR part 250 (51 FR 9316, March 18, 1986). The comments received concerning Form MMS–1869 were addressed in MMS's September 1988 request to OMB for approval of the information collection requirements. The comments received concerning Form MMS–1870 were addressed in MMS's October 1987 request to OMB for approval. The information collection requests for Forms MMS–1896 (OMB No. 1010–0016) and MMS–1870 (OMB No. 1010–0017) were approved by OMB through December 31, 1991, and December 31, 1990, respectively.

II. Current Actions

After consultation with MMS field personnel and industry representatives, MMS has decided there is need to update and modernize the current OMB approved reporting forms used for collecting information related to oil and gas and sulphur drilling and production in the OCS. Therefore, MMS proposes to combine the currently approved Form MMS–1869, Quarterly Oil Well Test Report, and Form MMS–1870, Semiannual Gas Well Test Report, into a new form, Form MMS–128, Semiannual Well Test Report. (See Figure 1 at the end of this document for a copy of Form MMS–128.) Each data element was analyzed on Forms MMS–1869 and MMS–1870 to determine its use and function. As a result of this analysis, the reporting interval for oil wells was changed from quarterly to semiannual and similar data elements on each form were combined which increased the total numbr of data elements on the new Form MMS–128 by 17 percent. However, this increase in data elements is not an increase in the information required and does not result in any increase in the time to complete the new form.

The burden hours for Forms MMS–1869 and MMS–1870 are currently 16,800 and 12,000, respectively, which equals 28,800 hours. The new Form MMS–128 is comprised of the 12,000 burden hours from Form MMS–1870 plus 8,400 burden hours from Form MMS–1869 (hours were reduced by half because reporting interval for oil wells will be changed from quarterly to semiannual). Therefore, the total burden hours to complete Form MMS–128 are estimated to be 20,400 hours. Further reductions in the number of burden hours are anticipated once the necessary preparatory actions are completed and electronic transfer initiated.

III. Request for Comments

The section of subpart K that contains information collection requirements associated with proposed Form MMS–128 is listed below, along with MMS's estimates of the number of annual responses for the average lessee, completion time per response, recordkeeping hours per lessee, and total burden hours for each requirement. The total burden hours have been calculated by multiplying the completion time and recordkeeping hours by the number of different lessees (74) operating in all OCS Regions. The MMS requests comments from the oil and gas and sulphur industries and other interested parties on this information collection requirement, including comments regarding the clarity of the information requirements, availability of required information, and frequency of collection.

Proposed subpart K, § 250.172 Oil and gas production rates

(b)(3) At least one well test shall be conducted during a calendar half for producing well completions and results submitted on Form MMS–128, Semiannual Well Test Report. Well tests shall be submitted within 45 days of the day the test was conducted.

Public reporting burden for this collection is estimated to average 2 hours per response. How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, do you estimate it will require you to complete and submit the required form? The estimated number of responses per respondent is 137.8. There are no recordkeeping hours.

Therefore, the estimated total annual information collection burden on lessees for Form MMS–128 is 20,400. (74 respondents × 137.8 responses per respondent = 10,200 annual responses × 2 hour per response = 20,400 total burden hours)

Comments submitted in response to this notice will be summarized and/or included in the information collection application submitted to OMB for approval of this information collection. These comments will also become a matter of public record.

Authority: Section 204, Pub. L. 95–372, 92 Stat 629 (43 U.S.C. 1334).

Dated: June 29, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

BILLING CODE 4310-MR-M

MINERALS MANAGEMENT SERVICE
SEMIANNUAL WELL TEST REPORT

ORIGINAL ___ CORRECTION ___	186 CHECK ONE ONLY OIL WELLS ___ *GAS WELLS ___	8 FIELD NAME	11 OPERATOR NAME AND ADDRESS (SUBMITTING OFFICE)
187 REPORTING PERIOD STARTING DATE	188 REPORTING PERIOD ENDING DATE	10 MMS OPERATOR NUMBER	

2 API WELL NO	3 WELL NO	4 MMS LEASE NUMBER	93 PRO-DUCTION METHOD	103 NET OIL CONDENSATE (BBLS/DAY)	104 NET GAS (MCF/DAY)	105 NET WATER (BBLS/DAY)	94 CHOKE SIZE (64ths)	96 FLOWING TUBING PRESSURE (PSIG)	97 * SHUT-IN WELLHEAD PRESSURE (PSIG)	98.* LINE PRESSURE (PSIG)	106 BASIC SED & WATER (%)	107 API OIL GRAVITY	91 DATE OF TEST

31. AUTHORIZING SIGNATURE	PAPERWORK REDUCTION ACT STATEMENT
TITLE	
DATE	

Form MMS-128 (August 1990) (Supersedes Forms MMS-1869 and MMS-1870 which will not be used)

Figure 1

[FR Doc. 90-18674 Filed 8-8-90; 8:45 am]
BILLING CODE 4310-MR-C

Information Collection Requirements for Form MMS–127, Request for Reservoir Maximum Efficient Rate (MER)

AGENCY: Minerals Management Service, Interior.

ACTION: Request for comments on the information collection requirements for Form MMS–127, Request for Reservoir Maximum Efficient Rate (MER).

SUMMARY: The Minerals Management Service (MMS), as part of its continuing effort to reduce the paperwork and respondent burden required by the Paperwork Reduction Act of 1980 (Public Law 96–511, 44 U.S.C. 3501 *et seq.*), provides the general public, industry, State, and other Federal Agencies an opportunity to comment on current and proposed information collection requirements. The MMS will evaluate all comments and will revise reporting and recordkeeping requirements, as appropriate, to minimize respondent burdens. This notice specifically requests comments regarding the information collection burdens imposed by MMS regulations on lessees who will submit Form MMS–127, Request for Reservoir Maximum Efficient Rate (MER). The MMS Regional Supervisors will use this form to determine whether the lessee has correctly classified an oil or gas reservoir, and if applicable, to determine whether the reservoir MER requested by the lessee is valid. This requirement implements the statutory mandate to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas (43 U.S.C. 1334 (g)(2)) together with the waste prevention, natural resource conservation, and correlative rights protection provisions of the Outer Continental Shelf (OCS) Lands Act.

The information provided on this form is necessary to enable MMS to ensure safety of operations; protection of the human, marine, and coastal environments; conservation of the natural resources in the OCS; prevention of waste; and protection of correlative rights with respect to oil and gas and sulphur operations in the OCS. Comments will be used in the preparation of an information collection application to be submitted to the Office of Management and Budget (OMB) for approval of information collection and recordkeeping requirements.

DATES: Comments may be submitted on or before September 10, 1990.

ADDRESSES: Comments and suggestions on this information collection requirement should be submitted to Gerald D. Rhodes, Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817, with copies to the Bureau Clearance Officer; Mail Stop 2300; Parkway Atrium; 381 Elden Street; Herndon, Virginia 22070–4817, and to the Office of Management and Budget; Paperwork Reduction Project (1010–0018); Washington, DC 20503, telephone number (202) 395–7340.

FOR FURTHER INFORMATION CONTACT: Copies of the current and proposed information collection requirements and supporting material may be obtained by contacting Gerald D. Rhodes; Chief, Branch of Rules, Orders, and Standards; telephone (703) 787–1600 or (FTS) 393–1600.

SUPPLEMENTARY INFORMATION:

I. Background

The information collected under subpart K, Production Rates, § 250.172(a)(1), (2), (6), (7), and (8) is used by MMS to determine whether the reservoir MER requested by the lessee is proper and valid. The public had an opportunity to comment on the present information collection and reporting requirements for subpart K during the restructuring and consolidation of the offshore operating regulations under 30 CFR part 250 (51 FR 9316, March 18, 1986). The comments received concerning Form MMS–1866 were addressed in MMS's October 1987 request to OMB for approval of the information collection requirements. The information collection request for Form MMS–1866 (OMB No. 101–0018) was approved by OMB through December 31, 1990.

II. Current Actions

After consultation with MMS field personnel and industry representatives, MMS has decided there is a need to update and modernize the current OMB approved reporting forms used for collecting information related to oil and gas and sulphur drilling and production in the OCS. Therefore, MMS proposes to replace the currently approved Form MMS–1866, Request for Reservoir Maximum Efficient Rate (MER), with a new form, Form MMS–127, Request for Reservoir Maximum Efficient Rate (MER). (See Figure 1 at the end of this document for a copy of Form MMS–127.) Each data element was analyzed on Form MMS–1866 to determine its use and function. As a result of this analysis, some data elements, which were combined on a single line on Form MMS–1866 that required two entries to be made in the same space, were separated, and a new form was developed using a separate space for each data element. Additionally, the layout of the form was changed to facilitate machine scanning in the future. The design of this new form does not affect the time to complete the form.

The burden hours for Form MMS–1866 are currently 600 hours. The new form, Form MMS–127, will reflect the same burden hours. However, further reductions in the number of burden hours are anticipated once the necessary preparatory actions are completed and electronic data transfer initiated.

III. Request for Comments

The section of subpart K that contains information collection requirements associated with proposed Form MMS–127 is listed below, along with MMS's estimates of the number of annual responses for the average lessee, completion time per response, recordkeeping hours per lessee, and total burden hours for each requirement. The total burden hours have been calculated by multiplying the completion time and recordkeeping hours by the number of different lessees (74) operating in all OCS Regions. The MMS requests comments from the oil and gas and sulphur industries and other interested parties on this information collection requirement, including comments regarding the clarity of the information requirements, availability of required information, and frequency of collection.

Proposed Subpart K, § 250.172 Oil and gas production rates

(a) *MER.* (1) The lessee shall propose an MER for each producing rate sensitive reservoir and submit Form MMS–127, Request for Reservoir MER, with the appropriate supporting information to the Regional Supervisor for approval as of [ ]. The lessee shall determine an MER and submit Form MMS–127 with appropriate supporting information to the Regional Supervisor for approval within 45 days after discovery that a reservoir is sensitive to the rate of production.

(2) The lessee may propose to revise an MER by submitting Form MMS–127 with appropriate supporting information.

(6) The lessee shall review the MER for each producing rate sensitive reservoir at least once a year and submit Form MMS–127 with appropriate supporting information.

(7) The lessee may request the reclassification of a reservoir from senstive to nonsensitive and request approval for termination of an MER by

submitting Form MMS–127 with information supporting the reclassification and termination.

(8) At the request of the Regional Supervisor, the lessee shall furnish the information specified on Form MMS–127 for any producing nonsensitive reservoir.

Public reporting burden for this collection is estimated to average 1 hour per response. How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection or information, do you estimate it will require you to complete and submit the required form? The estimated number of responses per respondent is 8.1. There are no recordkeeping hours. Therefore, the estimated total annual information collection burden on lessees for Form MMS–127 is 600. (74 respondents × 8.1 responses per respondent = 600 annual responses × 1 hour per response = 600 total burden hours)

Comments submitted in response to this notice will be summarized and/or included in the information collection application submitted to OMB for approval of this information collection. These comments will also become a matter of public record.

Authority: Section 204, Pub. L. 95–272, 92 Stat 629 (43 U.S.C. 1334).

Dated: June 29, 1990.

Ed Cassidy,

Deputy Director, Minerals Management Service.

BILLING CODE 4310–MR–M

MINERALS MANAGEMENT SERVICE
REQUEST FOR MAXIMUM EFFICIENT PRODUCTION RATE (MER)

1. ORIGINAL ___ CORRECTION ___	118. NATURE APPROVAL REQUEST	11. OPERATOR NAME AND ADDRESS (SUBMITTING OFFICE)
10. MMS OPERATOR NUMBER	INITIAL REQUEST ___ ANNUAL REVIEW ___ REVISION ___ RECLASSIFY RESERVOIR ___	

119. ATTACHMENTS (supporting information as per 30 CFR 250.172) LOG SECTION ___ RESERVOIR STRUCTURE MAP ___ OTHER ___	8. FIELD NAME	51. RESERVOIR NAME	120. DRIVE MECHANISM
	121. YR OF DISCOVERY	122. PRESENT MER	123. REQUESTED MER	124. TYPE OF RESERVOIR Oil ___ Oil with Association Gas ___ Gas Cap ___

VOLUMETRIC DATA

125. UPPER POROSITY CUT-OFF ϕ	126. LOWER POROSITY CUT-OFF ϕ	127. UPPER k CUT OFF	128. LOWER k CUT OFF	129. W/O INTERFACE	130. G/O INTERFACE	131. W/O INTERFACE

132. AREA @ G/O	133. ROCK VOL.	134. Vo	135. V_g	136. H_o	137. h_o	138. H_g	139. h_g
140. ϕ (EFFECT. POROSITY)	141. S_w	142. S_g	143. S_o	144. B_{oi}	145. B_{gi}	146. N	147. G
148. R_iG	149. R_iO	150. G_p/G	151. N_p/N	152. K_h	153. K_v		

FLUID ANALYSIS DATA

154. DEGREES API @ 60F	155. SG	156. R_{si}	157. μ_{oi}	158. μ_o	159. T_{avg}	160. AVG. WELL DEPTH
161. P_i	162. P_i DATE	163 P_{ws}	164. P_{ws} DATE	165. P_b	166. DATUM DEPTH	

PRODUCTION DATA

167. GOR	168 GOR DATE	169. WOR	170. WOR DATE	171. NO. OF INJECT. COMPL.	172. NO. OF ABD COMPLETIONS	173. NO. OF ACTIVE COMPLETIONS
174. $N_{p(1)}$	175. $N_{p(1)}$ DATE	176. $N_{p(2)}$	177. $N_{p(2)}$ DATE	178. $G_{p(1)}$	179. $G_{p(1)}$ DATE	
180. $G_{p(2)}$	181. $G_{p(2)}$ DATE	182. $W_{p(1)}$	183. $W_{p(1)}$ DATE	184. $W_{p(2)}$	185. $W_{p(2)}$ DATE	

CUMULATIVE RESERVOIR PRODUCTION DURING TEST PERIOD

103. OIL (BBLS)	104. GAS (MCF)	105. WATER (BBLS)	112. DATE TEST PERIOD COMMENCED	113. DATE TEST PERIOD ENDED

116. ACTIVE COMPLETIONS IN RESERVOIR (API WELL NO., LEASE NO., AND COMPLETION NO.) (ATTACH ANOTHER SHEET IF NECESSARY)

1.	4.
2.	5.
3.	6.

APPROVED BY	EFFECTIVE DATE

Form MMS-127 (August 1990) (Supersedes Form MMS-1866 which will not be used)

Figure 1

17. REMARKS	
WARNING:	
27. CONTACT NAME	28 PHONE
29. AUTHORIZING OFFICIAL	30. TITLE
31. AUTHORIZING SIGNATURE	32 DATE
PAPERWORK REDUCTION ACT STATEMENT	

Form MMS-127 Page 2

[FR Doc. 90-18677 Filed 8-8-90; 8:45 am]
BILLING CODE 4310-MR-C

[FR Doc. 90-18677 Filed 8-8-90; 8:45 am]
BILLING CODE 4310-MR-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Renewal of the A.I.D. Advisory Committee on Microenterprise Development

AGENCY: Agency for International Development, IDCA.

ACTION: Renewal of the Advisory Committee on Microenterprise Development.

SUMMARY: The Administrator of A.I.D. has determined that it is in the public interest to renew the Advisory Committee on Microenterprise Development. The Committee Management Secretariat of GSA has concurred in renewal of the Committee. The objective of the Committee is to advise the A.I.D. Administrator on Agency microenterprise development issues, programs and strategies, through provision of a forum to consider important sector challenges and opportunities.

FOR FURTHER INFORMATION CONTACT: Dr. Ross E. Bigelow, PRE/SMIE, Agency for International Development, Washington, DC 20523-0021; Phone (202) 647-2694.

Dated: August 2, 1990.

Michael Farbman,

Director, PRE/SMIE.

[FR Doc. 90-18683 Filed 8-8-90; 8:45 am]
BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 290 (SUB-NO. 2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of policy determination.

SUMMARY: The Commission has decided to change the methodology for calculating the Materials and Supplies (M&S) component of the index used to calculate the quarterly Rail Cost Adjustment Factor (RCAF). The change will simplify the calculation of the M&S component, but not change the level of the RCAF. Beginning with the third quarter of 1990 only the seven largest railroads which supply detailed price data for the M&S market basket will continue to provide data. The smaller Class I railroads will no longer be required to report data for the three major materials and supplies composition categories.

EFFECTIVE DATE: Effective October 1, 1990.

FOR FURTHER INFORMATION CONTACT: William T. Bono, (202) 275-7354; Robert C. Hasek, (202) 275-0938; (TDD for hearing impaired, (202) 275-1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or telephone (202) 289-4357 or 4359. Assistance for the hearing impaired is available through TDD Services at (202) 275-1721 or by pickup from Dynamic Concepts, Inc., Room 2229 at Commission Headquarters.

This action will not significantly affect either the quality of the human environment or energy conservation. It will not have a significant impact upon a substantial number of small entities.

Authority: 49 U.S.C. 10321, 10707a, 5 U.S.C. 553.

Dated: July 31, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-18690 Filed 8-8-90; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; D.T.W., Inc. et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 20, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 20, 1990.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC this 30th day of July 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/worker/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
D.T.W., Inc. (ACTWU)	Three Rivers, MI	7/30/90	7/20/90	24,659	Children's sleep & playwear.
Eagle Data Products, Inc. (workers)	Holly, MI	7/30/90	7/13/90	24,660	Printers.
Electronic Processors, Inc.	Englewood, CO	7/30/90	7/16/90	24,661	Tape cartridges.
Elkay Industries, Inc. (workers)	Wilkes-Barre, PA	7/30/90	6/15/90	24,662	Childrens' wear.
Fisher-Price (workers)	Holland, NY	7/30/90	7/20/90	24,663	Molded plastic parts.
Fourply, Inc. (company)	Grants Pass, OR	7/30/90	7/17/90	24,664	Plywood.

APPENDIX—Continued

Petitioner (union/worker/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
General Electric Motors Div. (IUE)	Holland, MI	7/30/90	7/16/90	24,665	Hermetic motors.
Halstead Industries, Inc. (USWA)	Zelienople, PA	7/30/90	7/18/90	24,666	Copper tubing.
Kessler, Inc. (ACTWU)	Wayland, MI	7/30/90	7/20/90	24,667	Childrens' sleep & playwear.
Kessler Knitting & Dye Div. (ACTWU)	Grand Rapids, MI	7/30/90	7/20/90	24,668	Childrens' sleep & playwear.
Libbey-Owens-Ford (ABGW)	Rossford, OH	7/30/90	7/16/90	24,669	Auto glass.
MGM, Inc. (company)	Mohall, ND	7/30/90	7/16/90	24,670	Oil.
Powerex, Inc. (workers)	Youngwood, PA	7/30/90	7/17/90	24,671	Semiconductors.
Powerex, Inc. (workers)	Auburn, NY	7/30/90	7/17/90	24,672	Semiconductors.
Prairie Producing Co. (workers)	Houston, TX	7/30/90	7/19/90	24,673	Oil & gas.
Remington, Bldg. Products (workers)	Millen, GA	7/30/90	7/19/90	24,674	Windows & doors.
Royal Canin U.S.A., Inc. (AFGM)	Emerson, PA	7/30/90	7/18/90	24,675	Dog food.
Tech. Form Industries (USW)	Shelby, OH	7/30/90	7/02/90	24,676	Auto exhausts.
Thor Energy (Co. & workers)	Shreveport, LA	7/30/90	7/12/90	24,677	Oil & gas.

[FR Doc. 90-18698 Filed 8-8-90; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-24, 147]

Electro-Wire Products of Texas Owosso, MI; Affirmative Determination Regarding Application for Reconsideration

By a letter dated June 27, 1990, the former workers requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for former workers of Electro-Wire Products of Texas, Owosso, Michigan. The negative determination was issued on June 6, 1990 and published in the **Federal Register** on June 26, 1990 (55 FR 26034).

The former workers claimed, among other things, that some of the wire harness production at Owosso was transferred to affiliated plants in Mexico.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 30th day of July 1990.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 90-18696 Filed 8-8-90; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Micromatic Textron et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period July 1990.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivisions have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,479; Micromatic Textron, Holland, MI

TA-W-24,409; Boise Cascade Corp., Goldendale, WA

TA-W-24,410; Boise Cascade Corp., Yakima, WA

TA-W-24,438; Fidelity Sportswear, Inc., Everett, MA

TA-W-24,441; Hood River Apparel, Inc., Beaverton, OR

TA-W-24,467; Birnbaum & Englard Knitting Mills, Brooklyn, NY

TA-W-24,443; INMOS Corp., Colorado Springs, CO

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-24,466; Baker Material Handling Corp., Cleveland, OH

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,471; Grand Production Co., Oklahoma City, OK

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-24,488; Uranerz U.S.A., Inc., Casper, WY

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-24,478; M & M Prewash Corp., El Paso, TX

The worker's firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-24,474; Keystone Franklin, Inc., Fort Washington, PA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-24,505; Jim Gold Logging, Hoquium, WA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-24,520; Boston Gear, Div of IMO Industries, Inc., North Quincy, MA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,475; Joyce International, Inc., Lehigh-Leapold, Burlington, IA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,481; Otis Elevator, Bloomington, IN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,635; Dividend Personnel Service, Wichita Falls, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-24,459; Superior Drawn Steel Co., Monaca, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,436; Delaware Luggage Co., Elkton, MD

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,477; Lord Jeff Knitting, Norwood, NJ

Increased imports did not contribute importantly to workers' separations at the firm.

TA-W-24,429; Anadarko Petroleum Corp., Denver Office, Englewood, CO

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-24,429A; Anadarko Petroleum Corp., Midland Office, Midland, TX

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA-W-24,456; Smith & Nephew Perry, Columbus, GA

A certification was issued covering all workers separated on or after April 6, 1989.

TA-W-24,460; Teresa Fashions, Inc., Hoboken, NJ

A certification was issued covering all workers separated on or after May 8, 1989.

TA-W-24,451; Perrella Gloves, Inc., Gloversville, NY

A certification was issued covering all workers separated on or after May 9, 1989.

TA-W-24,473; The Jaunty Textile Corp., Scranton, PA

A certification was issued covering all workers separated on or after May 23, 1989.

TA-W-24,440; H & H Manufacturing Corp., Statham, GA

A certification was issued covering all workers separated on or after May 16, 1989 and before July 31, 1990.

TA-W-24,465; Advance Transformer Co., Chicago, IL

A certification was issued covering all workers separated on or after May 21, 1989.

TA-W-24,446; Litton Industrial Automation System, Inc., New Britain Machine, New Britain, CT

A certification was issued covering all workers separated on or after September 10, 1989.

TA-W-24,514; Roytex, Inc., Meridian Manufacturing Co, Meridian, MS

A certification was issued covering all workers separated on or after May 31, 1989.

TA-W-24,486; Sprague Electric Co., Discrete Semiconductors & Sensor Div., Concord, NH

A certification was issued covering all workers separated on or after May 18, 1989.

TA-W-24,439; Gates Energy Products, Gainesville, FL

A certification was issued covering all workers separated on or after April 29, 1989.

TA-W-24,414; Cutronics, Inc., Timonium, MD

A certification was issued covering all workers separated on or after May 1, 1989.

TA-W-24,433; Bayly's Corp., Sanger, CA

A certification was issued covering all workers separated on or after May 17, 1989.

TA-W-24,453; Reeves Rubber, Inc., Albertville, AL

A certification was issued covering all workers separated on or after May 10, 1989.

TA-W-24,455; Robbins & Myers, Inc., Gallipolis, OH

A certification was issued covering all workers separated on or after May 3, 1989.

TA-W-24,431; Arrow Co., Atlanta, GA

A certification was issued covering all workers separated on or after May 17, 1989.

TA-W-24,468; Bomag (USA), Inc, Springfield, OH

A certification was issued covering all workers separated on or after June 1, 1990.

I hereby certify that the aforementioned determinations were issued during the month of July 1990. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: July 31, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-18699 Filed 8-8-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-24,197]

United Technologies Automotive, Inc., Zanesville, OH; Negative Determination Regarding Application for Reconsideration

By an application dated July 10, 1990, Local #1623 of the International Brotherhood of Electrical Workers (IBEW) requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on June 18, 1990 and published in the **Federal Register** on July 5, 1990 (55 FR 27703).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The IBEW claims that the jigs for the wire harnesses were moved to Mexico and that some wire harnesses were subcontracted out to Mexico and returned to Zanesville for stamping.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act of 1974 was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The Department's survey showed that the primary customer of United Technologies Automotive (UTA) reduced its purchases of wire harnesses from foreign sources during the relevant period.

Investigation findings show that UTA has two plants in Zanesville—the jig shop at Dryden Road and the wire harness plant at Ceramic Avenue. The Department's negative determination was based on wire harnesses, the final articles, produced at the Zanesville complex.

The findings show that the jigs and other capital equipment produced at Dryden Road were used internally for the production of wire harnesses and subsequently moved to Mexico. Other findings show that the affiliated plants in Mexico do not produce the jigs for the wire harnesses.

While there may be a relationship between the production of wire harnesses and internal domestic production of equipment (jigs and fixtures) used in the manufacture of wire harnesses, under the Trade Act of 1974 the Department is unable to consider such production of articles (jigs and fixtures) for meeting the statutory test of "like or directly competitive" with the final articles produced further along in the production process. Jigs and fixtures must be considered by themselves in determining whether or not the statutory test is met. There are no imports of jigs and fixtures from the Mexican plants.

The special order for wire harnesses obtained by UTA in 1989 and subsequently transferred to an affiliated plant in Mexico would not provide a basis for certification. The findings

show that only a limited amount (about a month) of production was performed at Zanesville to establish the production process. All workers producing the initial sample production for this special order at Zanesville were reabsorbed into other jobs.

The affiliated firm in Mexico subsequently off-loaded the wire harness production to another firm in Mexico which was not a preferred quality supplier for UTA's customer; hence all wire harness production in Mexico came back to Zanesville for inspection and rework resulting in a positive employment effect at Zanesville.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 25th day of July 1990.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 90-18697 Filed 8-8-90; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-90-106-C]

Cyprus Shoshone Coal Corporation; Petition for Modification of Application of Mandatory Safety Standard

Cyprus Shoshone Coal Corporation, P.O. Box 830, Hanna, Wyoming 82327 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and felt haulage entries) to its Shoshone No. 1 Mine (I.D. No. 48-01186) located in Carbon County, Wyoming. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. This petition concerns the requirement that intake and return aircourses be separated from belt haulage entries and that belt haulage entries not be used to ventilate active working places.

2. On April 15, 1981, petitioner was granted a modification of 30 CFR 75.326 to use the belt entry as a return entry during longwall development (docket number M-79-20-C).

3. As an alternate method, petitioner proposes to use belt air to ventilate the longwall face during retreat mining. The petitioner outlines specific equipment and procedures in the petition.

4. In support of this request, petitioner proposes to install additional carbon monoxide sensors at 1,000 foot intervals in lieu of 2,000 foot intervals along the intake escapeway entry.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 10, 1990. Copies of the petition are available for inspection at that address.

Dated: August 1, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-18692 Filed 8-8-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-110-C]

Stoney Fork Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Stoney Fork Coal Co., Inc., Box 368, Cumberland, Kentucky 40823 has filed a petition to modify the application of 30 CFR 75.1710-1 (cabs and canopies) to its No. 1 Mine (I.D. No. 15-09655) located in Perry County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that canopies be installed on the mine's electric face equipment at certain heights.

2. The mining height is 41 to 48 inches.

3. The use of canopies on the mine's equipment would result in a diminution of safety because canopies would:

(a) Reduce the equipment operator's visibility;

(b) Create discomfort to the operator;

(c) Dislodge roof support; and

(d) Impede the equipment operator's escape from the compartment in the event of an emergency.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 10, 1990. Copies of the petition are available for inspection at that address.

Dated: July 30, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-18693 Filed 8-8-90; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Arizona State Standards; Approval

1. *Background.* Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator-OSHA) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), by virtue of 29 CFR 1953.4. will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(e) of the Act and 29 CFR part 1902. On October 28, 1974, notice was published in the **Federal Register** (39 FR 39037) of the approval of the Arizona plan and the adoption of subpart CC to part 1952 containing the desision.

The Arizona plan provides for the adoption of federal standards as State standards after public hearing. In response to federal standard changes, the State has submitted its changes in the form of OSHA Instructions (STP's) from Derek Mullins, Director, to Frank Strasheim, Regional Administrator, and incorporated as part of the plan. The state standards reflect federal standard changes to 29 CFR 1910.1001 and 29 CFR 1926. 58, Asbestos (April 30, 1987, 52 FR 15722); 29 CFR 1910.1200, Hazard Communication (August 24, 1987, 52 FR 31852); 29 CFR 1910.1028, Benzene (September 11, 1987, 52 FR 34460); 29 CFR 1910.177, Servicing Multi-Piece and Single Piece Rim Wheels (September 25,

1987, 52 FR 36023); 29 CFR 1910.268, Revision of Telecommunication Training Records (September 28, 1987, 52 FR 36384); 29 CFR 1926, Revision of Construction Industry Test and Inspection Records (September 28, 1987, 52 FR 36378); 29 CFR 1910. 1048 Formaldehyde (December 4, 1987, 52 FR 46168); 29 CFR 1910.272, Grain Handling Facilities (December 31, 1987, 52 FR 49592); 29 CFR 1910.217, Presence Sensing Device Initiation of Mechanical Power Presses (March 14, 1988, 53 FR 8322); 29 CFR 1910.1047, Ethyelene Oxide (April 6, 1988 53 FR 11414); 29 CFR 1910.7, Safety Training or Certification of Certain Workplace Equipment and Materials (April 12, 1988, 53 FR 12102 and May 11, 1988, 53 FR 16838); 29 CFR part 1926, Subpart Q, Concrete and Masonry Construction (June 16, 1988, 53 FR 22612); 29 CFR 1926.550, Crane or Derrick Suspended Personnel Platforms (August 2, 1988, 53 FR 29116); 29 CFR 1910.1001 and 29 CFR 1926.58, Asbestos (September 14, 1988, 53 FR 35610); 29 CFR 1910.20, Access to Employee Medical Records (December 13, 1988, 53 FR 49981); 29 CFR 1910.1000, Air Contaminants (January 19, 1989, 54 FR 2332); 29 CFR 1910.120, Hazardous Waste Operation and Emergency Response (March 6, 1989, 54 FR 9294); and 29 CFR part 1926, Subpart S, Underground Construction (June 2, 1989, 54 FR 23824).

These standards are contained in the Arizona Occupational Safety and Health Standards, and the Construction Industry Standards, which were adopted after public hearings and the resolution adopted by the Industrial Commission of Arizona consistent with their authority under the Aizona Occupational Safety and Health Act of 1972.

2. *Decision.* Having reviewed the State submission in comparison with Federal standards, it has been determined that the State standards are identical to the comparable Federal standards and accordingly are approved.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 71 Stevenson Street, Fourth Floor, San Francisco, California 94105; and Director, Division of Occupational Safety and Health, 800 W. Washington, Phoeniz, AZ 85007; and Directorate of Federal/State Operations, room 3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Arizona plan as a proposed change and making the OSHA Regional Adminstrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law, which included public comment, and further public participation would be repetitious.

The decision is effective August 9, 1990.

Authority: Section 18, Pub. L. 91–596, 84 Stat. 1608 (20 U.S.C. 667)).

Signed at San Francisco, California this 11th day of June 1990.

Frank Strasheim,

Regional Administrator.

[FR Doc. 90–18695 Filed 8–8–90; 8:45 am]

BILLING CODE 4510–26–M

Nevada State Standards; Approval

I. *Background:* Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator—OSHA), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(e) of the Act and 29 CFR part 1902. On January 4, 1974, notice was published in the **Federal Register** (39 FR 1008) of the approval of the Nevada plan and the adoption of subpart W to part 1952 of title 29 containing the decision. The Nevada plan provides for the adoption of Federal Standards as State standards by reference.

By letters dated May 29, 1990, February 26, 1990 and April 27, 1990, from Nancy C. Barnhart to Frank Strasheim and incorporated as part of the plan, the State submitted State standard revisions identical to 29 CFR 1910.1025, Exposure to Lead (July 11, 1989 54 FR 29142); 29 CFR 1910.147, Control of Hazardous Energy Sources (Lockout/Tagout) (September 1, 1989, 54 FR 36644); 29 CFR part 1926, subpart P, Excavations (October 31, 1989, 54 FR 45894) and 29 CFR 1910.1450, Exposure to Hazardous Chemicals in Laboratories (January 31, 1990, 55 FR 3300).

These standards are contained in the Division of Occupational Safety and Health Standards for General Industry and Construction. The subject standards, 29 CFR 1910.1025, Exposure to Lead, 29 CFR 1910.147, Control of Hazardous Energy Sources (Lockout/Tagout), 29 CFR part 1926, subpart P, Excavations and 29 CFR 1910.1045, Exposure to Hazardous Chemicals in Laboratories were adopted by reference on August 10, 1989, October 31, 1989, January 2, 1990 and May 1, 1990 respectively, pursuant to Nevada State Law, § 618.295.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the standards are identical to the Federal standards and accordingly are approved.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 71 Stevenson Street, Safety and Health, 1370 South Curry Street, Carson City, Nevada 89710; and Directorate of Federal State Operations, room N3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Nevada State plan as a proposed change and for making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal Standards which were promulgated in accordance with Federal law, including meeting requirements for public participation.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective August 9, 1990.

Authority: Section 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667).

Signed at San Francisco, California this 16th day of July 1990.

Frank Strasheim,

Regional Administrator.

[FR Doc. 90–18694 Filed 8–8–90; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (90–58)]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by September 10, 1990. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Mr. D.A. Gerstner, NASA Agency Clearance Officer, Code NTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0057), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer (202) 755–1430.

Reports

Title: Application for Volunteer Program.

OMB Number: 2700–0057.

Type of Request: Extension.

Frequency of Report: One time only initial requirement; thereafter occasional replacements.

Type of Respondent: Individuals of households.

Number of Respondents: 50.

Responses per Respondent: 1.

Annual Responses: 50.

Hours per Response: 1.

Annual Burden Hours: 50.

Abstract-Need/Uses: Goddard Space Flight Center has established a volunteer program for conducting tours and performing administrative tasks at the Visitor Center. Respondents will furnish information to enable selection. An anticipated 50 to 100 applications from retirees, students, housewives and senior citizens are expected.

Dated: July 30, 1990.

D.A. Gerstner,

IRM Policy Division.

[FR Doc. 90–18588 Filed 8–8–90; 8:45 am]

BILLING CODE 7510–01–M

[Notice 90–60]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by September 10, 1990. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Mr. D.A. Gerstner, NASA Agency Clearance Officer, Code NTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–xxxx), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer (202) 755–1430.

Reports

Title: Participant Database Subsystem (PDBS) Special Personnel Records.

OMB Number: New.

Type of Request: New collection.

Frequency of Report: Recordkeeping, annually.

Type of Respondent: Individuals or households.

Number of Respondents: 1,200.

Responses per Respondent: 1.

Annual Responses: 1,200.

Hours per Response: 0.25.

Annual Burden Hours: 300.

Abstract-Need/Uses: The PDBS will monitor the progress of and keep in touch with former participants of the NASA Summer High School Apprenticeship Research Program (SHARP) and other projected pre-college, college and university programs. The information will be used to match participants with educational and employment opportunities and to support program planning and evaluation.

Dated: July 30, 1990.

D.A. Gerstner,

Director, IRM Policy Division.

[FR Doc. 90–18589 Filed 8–8–90; 8:45 am]

BILLING CODE 7510–01–M

[Notice 90–63]

Allco Chemical Corp., Dallas, TX; Intent to Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant Allco Chemical Corporation of Dallas, Texas, a limited exclusive, royalty-bearing, revocable license to practice the invention as described in U.S. Patent Application No. 07/266,045, entitled "Processable Polyimide Adhesive and Matrix Composite Resin", which was filed on November 2, 1988. The proposed exclusive license will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with NASA Patent Licensing Regulations, 14 CFR part 1245, subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license, unless within 60 days of the Date of this Notice, the Director of Patent Licensing receives the written

objections to the grant, together with supporting documentation. The Director of Patent Licensing will review all written objections to the grant and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the exclusive license.

DATES: Comments to this notice must be received by October 9, 1990.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 453–2430.

Dated: August 1, 1990.

Edward A. Frankle,

General Counsel.

[FR Doc. 90–18657 Filed 8–8–90; 8:45 am]

BILLING CODE 7510-01-M

[Notice 90–62]

Intent To Grant a Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant Apex Photo Products, Corporation of Port Washington, New York, a partially exclusive, royalty-bearing, revocable license to practice the invention described in U.S. Patent No. 4,840,394, entitled, "Articulated Suspension System", which issued to the United States of America, as represented by the Administrator of the National Aeronautics and Space Administration. The proposed patent license will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR part 1245, subpart 2. NASA will negotiate the final terms and conditions and grant the partially exclusive license, unless within 60 days of the Date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation. The Director of Patent Licensing will review all written objections to the grant and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the partially exclusive license.

DATES: Comments to this notice must be received October 9, 1990.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 453–2430.

Dated: August 11, 1990.

Edward A. Frankle,

General Counsel.

[FR Doc. 90–18656 Filed 8–8–90; 8:45 am]

BILLING CODE 7510-01-M

[Notice 90–61]

Intent to Grant a Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant Valvtron Industries, Inc., of Houston, Texas, a partially exclusive, royalty-bearing, revocable license to practice the invention described in U.S. Patent No. 4,311,057, entitled, "Hermetic Seal for a Shaft", which issued to the United States of America, as represented by the Administrator of the National Aeronautics and Space Administration. The proposed patent license will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the partially exclusive license, unless within 60 days of the Date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation. The Director of Patent Licensing will review all written objections to the grant and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the partially exclusive license.

DATES: Comments to this notice must be received by October 9, 1990.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 453–2430.

Dated: August 11, 1990.

Edward A. Frankle,

General Counsel.

[FR Doc. 90–18655 Filed 8–8–90; 8:45 am]

BILLING CODE 7510-01-M

[Notice 90–59]

Privacy Act of 1974; Amendment to an Existing System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of amendment to an existing Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974 (Pub. L. 93–579), as amended, NASA is proposing to amend an existing Privacy Act system of records, "Special Personnel Records, NASA 10SPER." Background information about the proposed amendment to the system is in the Supplementary Information.

DATES: NASA filed a report of an amended Privacy Act system of records with the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Office of Management and Budget (OMB). The amended system will become effective on October 9, 1990, unless NASA receives comments which would result in a contrary determination.

ADDRESSES: Comments should be addressed to the System Manager, Elementary and Secondary Programs Branch, Educational Affairs Division, Code XEE, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Eddie Anderson, (202) 453–8396.

SUPPLEMENTARY INFORMATION: NASA proposes to amend the existing system of records for NASA 10SPER to publish a directory of former NASA apprentices; to provide information to selected colleges and universities on behalf of NASA apprentices who are in high school; to identify potential candidates for educational and employment opportunities at NASA and other organizations; to facilitate communication with and among NASA apprentices and participants in other projected pre-college, college, and university programs; to serve as a tool for performing short-term and long-term institutional planning and evaluations; and to support NASA's educational and research mission through followup records. To do this, a subsystem, which will be called the Participant Database Subsystem (PDBS), will be set up under the supervision of NASA's Educational Affairs Division.

The Educational Affairs Division is authorized to maintain the information because of the responsibilties it has to support NASA's mission. Specifically, the absence of the PDBS privacy fields would greatly handicap the ability of the Division to build a pool of potential applicants, including underrepresented minority applicants, for future NASA and aerospace related educational and employment opportunities. The ability to monitor the progress of and keep in touch with former apprentices and participants in projected programs is an essential component in today's

technically demanding and highly competitive labor market. This subsystem will help NASA quantify the pool of qualified potential applicants and communicate directly with them about science and engineering positions. Such information is essential in light of the growing number of scientists and engineers who are retiring from NASA each year and must be replaced in an orderly and effective way.

At the same time, NASA will be able to use the PDBS to justify the budgeting requirements and expenditures related to the continued operation of SHARP and other programs that are contributing directly to NASA's fulfillment of its mission and enhancement of the larger aerospace community. Also, the presence of PDBS will help NASA to increase the return on the investment it is making in program participants year in and year out. Specifically, management will be able to monitor the academic and career development of program participants in a longitudinal framework and to thereby gain deeper insights into ways to encourage and assist young people in exploring and pursuing science and engineering careers. One of the benefits of PDBS will be qualitative and quantitative indicators of participants' successes in school and work. For example, PDBS will show how many participants completed degrees in science and engineering; how many are working for NASA, a NASA contractor, or an aerospace company; and what their major accomplishment have been in school, at work, and in the community.

As current and former NASA employees, certain information on SHARP apprentices is already available through the NASA personnel database. PDBS will draw on the personnal database so as to limit the data it collects from apprentices to data that are not available in any database and that are vital to the successful monitoring of SHARP apprentices. Both the NASA Office of Equal Opportunity Programs and Personnel Management Office have approved the inclusion of and will oversee the use of this data when the subsystem is set up. All equal opportunity data will be segregated into a separate file and individual equal opportunity data will be released only when the NASA Office of Equal Opportunity Programs has approved such a release in writing or in response to proper leagal authority. Beyond these programmatic authorities, the NASA Educational Affairs Divison is also authorized to maintain this system under governing statutes of 41 U.S.C. 2473 and 44 U.S.C. 3101. No computer matching is anticipated for PDBS.

There is no known adverse effect of this proposal on the privacy of individuals whose information will be contained in PDBS. The data will be adequately protected in their electronic medium (microcomputer disk storage) by various levels of password controls and access rights. Unauthorized access to the subsystem of records is controlled at four levels.

1. Access to a removable hard storage disk.

2. Access to the Disk Operating Systen (DOS) through the Direct Access Software Package.

3. Access by password to the database level.

4. Access to passwords for three types of actions.

(a) Online data record retrieval.

(b) Addition, deletion, or modification of data record information.

(c) Changes to input and output variables and system programming.

Collection of the information on hard copy forms is controlled by a Privacy Act statement of use and by limited handling of the forms by "need to know" individuals only. In those cases where the NASA personnel database does not have a race and national origin designation for an individual a copy of Standard Form 181, Race and National Origin Identification, will be used to gather this information on a voluntary basis.

There is no known relationship of this proposal to other branches of the Federal Government and to State and local governments.

Dated: August 1, 1990.

Wallace O. Keene,

NASA Privacy Officer.

NASA 10SPER

SYSTEM NAME:

Special Personnel Records—NASA

SYSTEM LOCATION:

Locations 1 through 9 inclusive, and location 11 as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Candidates for and recipients of awards or NASA training; civilian and active duty military detailees to NASA; participants in enrollee programs; Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; NASA contract and grant awardees and their associates having access to NASA premises and records; individuals with interest in NASA matters including Advisory Committee Members; NASA employees and family members, prospective employees and former employees; former and current participants in existing and future educational programs, including the Summer High School Apprenticeship Research Program (SHARP).

CATEGORIES OF RECORDS IN THE SYSTEM:

Special Program Files including: (1) Alien Scientist files; (2) Award files; (3) Counseling files, life and health insurance, retirement, upward mobility, and work injury counseling files; (4) Military and Civilian Detailee files; (5) Personnel Development files such as nominations for and records of training or education. Upward Mobility Program files, Intern Program files, Apprentice files, and Enrollee Program files; (6) Special Employment files such as Federal Junior Fellowship Program files, Stay-in-School Program files, Summer Employment files, Worker-Trainee Opportunity Program files, NASA Executive Position files, Expert and Consultant files, and Cooperative Education Program files; and (7) Supervisory appraisals under Competitive Placement Plan.

Correspondence and related information including: (1) Claims correspondence and records about insurance such as life, health, and travel; (2) Congressional and other Special Interest correspondence, including employment inquiries; (3) Correspondence and records concerning travel related to permanent change of station; (4) Debt complaint correspondence; (5) Employment interview records; (6) Information related to outside employment and activities of NASA employees; (7) Placement followups; (8) Preemployment inquiries and reference checks; (9) Preliminary records related to possible adverse actions; (10) Records related to reductions-in-force; (11) Records under agency as well as negotiated grievance procedures; (12) Separation information including exit interview records, death certificates and other information concerning deaths, retirement records, and other information pertaining to separated employees; (13) Special planning analysis, and administrative information; (14) Performance appraisal records; (15) Working papers for prospective or pending retirements.

Special Records and Rosters including: (1) Locator files; (2) Ranking lists of employees; (3) Repromotion candidate lists; (4) Retired military employee records; (5) Retiree records; (6) Followup records for educational programs, such as the Summer High

School Apprenticeship Research Program (SHARP) and other existing or future programs.

Agencywide and installation automated personnel information.

Rosters, applications, recommendations, assignment information and evaluations of Faculty, Science, National Research Council and other Fellows, Associates and Guest Workers including those at NASA installations but not on NASA rolls; also, information about NASA contract and grant awardees and their associates having access to NASA premises and records.

Information about members of advisory committees and similar organizations. All NASA-maintained information of the same types as, but not limited to, that information required in systems of records for which the Office of Personnel Management and other Federal personnel-related agencies publish governmentwide Privacy Act Notices in the **Federal Register**.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2473; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in this system of records is used by officials and employees within NASA for preview, planning, review and management decisions regarding personnel and activities related to the records.

In addition to the internal uses of the information contained in this system of records the following are routine uses outside of NASA: (1) Disclosures may be made to organizations or individuals having contract, legal, administrative or cooperative relationships with NASA, including labor unions, academic organizations, governmental organizations, non-profit organizations, and contractors; and to organizations or individuals seeking or having available a service or other benefit or advantage.

The purpose of such disclosures is to satisfy a need or needs, further cooperative relationships, offer information, or respond to a request; (2) Statistical or data presentations may be made to governmental or other organizations or individuals having need of information about individuals in the records; (3) Responses may be made to other Federal agencies, and other organizations having legal or administrative responsibilities related to programs and individuals in the records; (4) Disclosure may be made to a Congressional office from the record of an individual in response to a written inquiry from the Congressional office made at the request of that individual; and (5) Standard routine uses 1 through 4 inclusive as set forth in Appendix B may also apply.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, lists, forms, index cards, microfilm, microfiche, and/or various computer storage devices such as discs, magnetic tapes and punched cards.

RETRIEVABILITY:

Records are indexed by any one or a combination of name, birthdate, social security number, or identification number.

SAFEGUARDS:

Records are protected in accordance with the requirements and procedures which appear in the NASA regulations at 14 CFR part 1212.

RETENTION AND DISPOSAL:

Records are retained for varying periods of time depending on the need for use of the files, and are destroyed or otherwise disposed of when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Associate Administrator for Personnel Management, Location 1.

Subsystem Managers: Director, Headquarters Human Resources Management Division, Office of Inspector General, and Chief, Elementary and Secondary Programs Branch, Educational Affairs Division, Location 1; Director of Personnel, Locations 2, 3, 4, 5, 6, 7, 8, and 9; Chief, Personnel Office, Location 11. Locations are set forth in Appendix A.

NOTIFICATION PROCEDURE:

Apply to the System or Subsystem Manager at the appropriate location above. In addition to personal identification (name, social security number, etc.), indicate the specific type of record, the appropriate date or period of time, and the specific kind of individual applying (e.g., employee, former employee, contractor employee, etc.).

RECORD ACCESS PROCEDURES:

Same as notification procedures above.

CONTESTING RECORD PROCEDURES:

The NASA regulations pertaining to access to records and for contesting contents and appealing initial determinations by the individual concerned are set forth in 14 CFR part 1212.

[FR Doc. 90–18587 Filed 8–8–90; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

Meetings

AGENCY: National Commission on Acquired Immune Deficiency Syndrome.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463 as amended, the National Commission on Acquired Immune Deficiency Syndrome announces a forthcoming meeting of the Commission.

DATE AND TIME: September 17–18, 1990 9 a.m.–5:30 p.m.

PLACE: Interstate Commerce Commission, Hearing room B 12th and Constitution Avenue NW., Washington, DC 20423.

TYPE OF MEETING: Open.

FOR FURTHER INFORMATION CONTACT: Maureen Byrnes, Executive Director, The National Commission on Acquired Immune Deficiency Syndrome, 1730 K Street NW., suite 815, Washington, DC 20006 (202) 254–5125. Records shall be kept of all Commission proceedings and shall be available for public inspection at this address.

AGENDA: The Commission will hear testimony on issues relating to public health and the Human Immunodeficiency Virus (HIV) epidemic.

Maureen Byrnes,

Executive Director.

[FR Doc. 90–18618 Filed 8–8–90; 8:45 am]

BILING CODE 6820–CN–M

NATIONAL SCIENCE FOUNDATION

Committee Management: Establishment

The Asssistant Director for Biological, Behavioral, and Social Sciences has determined that the establishment of the Task Force on the Structural Review of the Biological, Behavioral, and Social Sciences Directorate (BBS) is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee

Management Secretariat, General Service Administration.

Name of Committee: Task Force on the Structural Review of the Biological, Behavioral, and Social Sciences Directorate (BBS).

Purpose: The task force will outline the scientific and research-related strengths and weaknesses of the current organization and made specific recommendations as to what organizational structure might best address the scientific needs of the communities represented by BBS.

Balanced Membership Plan: Plans are for a 20-member task force. In addition to the required scientific expertise, consideration will be given to the following areas as well to ensure a well balanced membership: geographic distribution, minorities, women, disabled, large research universities, and small colleges.

Responsible NSF Official: Dr. Mary E. Clutter, Assistant Director for Biological, Behavioral, and Social Sciences, National Science Foundation, room 506, 1800 G Street, NW., Washington, DC 20550 (202) 357–9854.

Dated: August 6, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–18645 Filed 8–8–90; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271–OLA–4; ASLBP No. 89–595–03–OLA]

Atomic Safety and Licensing Board Prehearing Conference; Vermont Yankee Nuclear Power Corp.

Before Administrative Judges: Robert M. Lazo, Chairman, Jerry R. Kline, Frederick J. Shon

In the Matter of: Vermont Yankee Nuclear Power Corporation; Vermont Yankee Nuclear Power Station

August 1, 1990.

Constructions Period Recapture

Notice is hereby given that a prehearing conference in the above-identified proceeding, concerning the proposed extension of the expiration date of the Facility Operating License for Vermont Yankee Nuclear Power Station, will commence at 9:30 a.m. on Tuesday, August 21, 1990, at the U.S. District Court, Post Office and Courthouse Building, 204 Main Street, Brattleboro, Vermont. The prehearing conference will continue, to the extent necessary, on Wednesday, August 22, 1990. The principal matters to be considered at the conference will be the status of discovery requests in this proceeding, oral arguments on late-filed Contention X, further scheduling for the proceeding, and such other matters as may aid in the orderly disposition of the proceeding.

Members of the public are invited to attend the conference. However, limited appearance statements, as authorized by 10 CFR 2.715(a), will not be taken at this session of the proceeding. Documents related to this proceeding are on file at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the Commission's Local Public Document Room, Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Issued at Bethesda, Maryland, this 1st day of August 1990.

It is so ordered.

For the Atomic Safety and Licensing Board.

Robert M. Lazo,

Chairman, Administrative Judge.

[FR Doc. 90–18586 Filed 8–8–90; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittees on Decay Heat Removal Systems and Thermal Hydraulic Phenomena; Meeting

The Subcommittees on Decay Heat Removal Systems and Thermal Hydraulic Phenomena will hold a joint meeting on August 28, 29 and 30, 1990, at the Westbank Inn, 475 River Parkway, Idaho Falls, ID.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, August 28, 1990—8:30 a.m. until the conclusion of business

The Subcommittees will discuss the details of the modifications made to the RELAP–5 MOD–2 code as specified in the MOD–3 version.

Wednesday, August 29, 1990—8:30 a.m. until the conclusion of business

The Subcommittees will explore the use of feed and bleed for decay heat removal in pressurized water reactors (PWRs).

Thursday, August 30, 1990—8:30 a.m. until the conclusion of business

The Subcommittees will review the proposed resolution of Generic Issue 23, "Reactor Coolant Pump Seal Leakage."

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 301/492–8558) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: August 1, 1990.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 90–18585 Filed 8–8–90; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—Kenneth A. Fogash (202) 272–2142. Upon written request copy available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC, 20549–1002.

Extension

Rule 13e–4, Schedule 13E–4, File No. 270–190

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") has submitted for OMB approval extension of Rule 13e–4 and Schedule 13E–4 under the Securities

Exchange Act of 1934. Filings on Schedule 13E–4 are required to be made by issuers who commence tender offers for their own stock.

The Commission estimates that approximately 121 respondents file annually at an estimated 233 burden hours per response. The estimated burden hours are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of the Commission's rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–6004 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 32351–0203), Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 1, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–18717 Filed 8–8–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–28306; File No. SR–AMEX–90–15]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc., Relating to an Extension of the Pilot Program for Position Limit Exemptions for Hedged Equity Option Positions

Pursuant to section 19(b)(1) of the Securities and Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 18, 1990, the American Stock Exchange, Inc. ("AMEX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The AMEX proposes to extend for six months its pilot program for position limit exemptions for hedged equity option positions.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In May 1988, the Commission approved on a pilot basis the AMEX's proposal to amend the Exchange's position limit rules.[2] Position limits for equity options are determined in accordance with a three-tiered system (*i.e.*, 3,000, 5,500 or 8,000 contracts) based on the number of shares of the underlying security outstanding and/or the underlying security's trading volume.[3]

The AMEX's pilot program provides an exemption from applicable equity option position limits for accounts which have established one of the four commonly used hedged positions on a limited one-for-one basis, *i.e.*, long stock and short call, long stock and long put, short stock and long call, and short stock and short put. However, the maximum position established pursuant to the exemption may not exceed twice the present position limit. The exemption also provides that exercise limits still correspond to position limits,[4] Such that investors are allowed to exercise, during any five consecutive business days, the number of option contracts set forth as the position limit, as well as those contracts purchased pursuant to the position limit exemption.[5]

During the initial two-year period that the program has been in operation, the Exchange has not experienced any significant problems with the implementation of the pilot. Further, customers of Exchange members have found the hedge exemption very useful in offsetting the risk attendant to their stock positions. Accordingly, the AMEX believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Exchange since it is designed to give investors with large equity positions the ability to hedge these positions while increasing the depth and liquidity of options trading without increasing the risk of market manipulation or disruption. In particular, the Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act, which provides, among other things, that the rules of the Exchange are to be designed to prevent fraudulent and manipulative acts and practices, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The AMEX believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others.

The Exchange has not received formal comment regarding the proposed or existing rule.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated approval pursuant to section 19(b)(2) of the Act. The Commission finds that the proposed rule change to extend the pilot program is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) thereunder.[6] Specifically, the

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[1] Position limits impose a ceiling on the aggregate number of options contracts on the same side of the market that can be held or written by an investor or group of investors acting in concert. The Commission approved the AMEX's current hedged position limit pilot program for equity options on a two-year pilot basis on May 24, 1988. *See* Securities Exchange Act Release No. 25738 (May 24, 1988), 53 FR 20203 ("Pilot approval order").

[2] *See* AMEX Rule 904, Commentary .09.

[3] *Id.*

[4] Exercise limits prohibit the exercise by an investor or group of investors acting in concert of more than the specified number of options contracts in the position limit rule within five consecutive business days.

[5] *See* AMEX Rule 905.

[6] 15 U.S.C. 78f(b)(5) (1982).

Commission concludes, as it did when approving the commencement of the pilot, that the AMEX proposal to provide for increased position and exercise limits for equity options in circumstances where those excess positions are fully hedged with offsetting stock positions will provide greater depth and liquidity to the market and allow investors to hedge their stock portfolios more effectively, without significantly increasing concerns regarding intermarket manipulations or disruptions of either the options market or the underlying stock market.[7]

The Commission finds good cause for approving the extension of the pilot program prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** so that the pilot program may continue uninterrupted. In addition, because there have been no adverse comments concerning the pilot program since its implementation and because of the importance of maintaining the quality and efficiency of the AMEX's markets, the Commission believes good cause exists to approve the extension of the pilot program on the accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 30, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] That the proposed rule change (SR–AMEX–90–15) is approved and, accordingly, the position limit exemption pilot program for hedged equity options positions is extended until November 24, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 2, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–18612 Filed 8–8–90; 8:45 am]

BILLING CODE 8010–01–M

[7] *See* Pilot approval order, *supra* at note 2. During the extension of the pilot, the Commission expects the AMEX to develop criteria to evaluate further effectiveness of the pilot and to report the results of this evaluation before the pilot expires.

[8] 15 U.S.C. 78s(b) (1982).

[Release No. 34–28308; File No. SR–CBOE–90–06)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc.; Relating to Establishing a Charge for Delayed Submission of Trade Match Transaction Data

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 27, 1990, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This rule change filing contains six new rules of the Chicago Board Options Exchange, Incorporated. The entire text of each of the six rules is new.

Trade Match Delayed Submission Fee Rules

Rule 2.25. Collection of Certain Fees

(a) *Use of Integrated Billing System.* The fees for delayed submission of trade information imposed under Rule 2.30 shall be collected through use of the integrated billing system of Rule 3.23, except that the dispute procedures authorized in Rule 2.30 applicable to such fees shall be the exclusive remedy available for challenge to the collection of any such fees.

(b) *Obligation of Clearing Member.* A Clearing Member may collect fees imposed under Rule 2.30(a) from a Market-Maker to whom such fees relate and for whom such Clearing Member acted as such during the time periods in which the events giving rise to such fees occurred. The amount of such fees shall be an obligation payable to the Exchange by the Clearing Member regardless of whether the Clearing Member has actually collected the fees from the Market-Maker to whom they relate. In the event such a fee is not paid, the Exchange may take action under Rule 2.23 or under chapter XVII against the Market-Maker, the Clearing Member, or both.

(c) *Collection Procedure.* Fees imposed under Rule 2.30 which are billed in a given month, may be collected by the Exchange in the same or a succeeding month by drafting the appropriate clearing Member's account at the Clearing Corporation. In the event a request for verification of a fee has been timely made but no determination has been reached before the deadline for monthly processing, the entire amount of the fee in question shall be collected at the normal time and an adjustment in a subsequent billing or a refund, either of which shall exclude any interest or time value of money effects, shall be subsequently made if necessary after a determination is reached.

Rule 2.30. Fee for Delayed Submission of Trade Information

(a) *Fee applicable to Market-Makers.* Any Market-Maker who fails to submit the trade information required by Rule 6.51 for at least a stated percentage ("Minimum Timely MM Percentage") of all of such Market-Maker's transmissions (both buys and sells) executed in person and not by order ("in-person MM trades") for a given day in two (2) hours or less after the time of execution for the respective transactions shall incur an additional transaction fee for such day. That additional transaction fee shall be two (2) cents per contract for the number of contracts determined by the formula set forth below. The per-contract factor of the additional fee shall remain constant, but the Minimum Timely MM Percentage shall change based on the following schedule:

[1] The proposal originally was filed under section 19(b)(3) of the Act for immediate effectiveness. On July 26, 1990, the CBOE filed a letter requesting that the proposal be filed under section 19(b)(2) of the Act. Therefore, the proposal will not become effective until the Commission has reviewed and approved the proposal in accordance with the provisions under section 19(b)(2) of the Act.

Date minimum timely MM percentage goes into effect	Minimum timely MM percentage of TRADES for day (percent)	Additonal fee per CONTRACT on % of trades submitted after 2 hrs (cents)
Date Rule 2.30 goes into effect	60	2
Three (3) calendar months after the effective date of Rule 2.30	70	2
Six (6) calendar months after the effective date of Rule 2.30	80	2

For any given day, the additional fee will be applied to the number of contracts determined by multiplying (1) by (2):

(1) The number of in-person MM trades of the Market-Maker for which trade information was submitted more than two (2) hours after the respective times of execution divided by the total number of in-person MM trades of the Market-Maker for which trade information was submitted for such day.

(2) The total number of contracts comprising the in-person MM trades executed by the Market-Maker during such day.

(b) *Fee applicable to Clearing Members.*—Any clearing Member which fails to submit the trade information required by Rule 6.51 for at least a stated percentage ("Minimum Timely CF Percentage") of all of the in-person MM trades cleared by such Clearing Member on a given day in two (2) hours or less after the respective times of execution of such transactions shall incur an additional trade match fee for such day. That additional fee shall be two (2) cents per contract based on the number of contracts determined by the formula set forth below. The per-contract factor of such additional fee shall remain constant, but the Minimum Timely CF Percentage shall change based on the following schedule:

Date minimum timely CF percentge goes into effect	Minimum timely CF percentage of TRADES (records) for day, (percent)	Additonal fee per CONTRACT on % of trades submitted after 2 hrs (cents)
Date Rule 2.30 goes into effect	60	2
Three (3) calendar months after the effective date of Rule 2.30	70	2
Six (6) calendar months after the effective date of Rule 2.30	80	2

For any given day, the additional fee will be applied to the number of contracts determined by subtracting (2) from (1) and multiplying the remainder by (3):

(1) The Minimum Timely CF Percentage.

(2) The number of in-person MM trades (records) cleared by the Clearing Member for which trade information was submitted in two (2) hours or less after the respective times of execution divided by the total number of in-person MM trades (records) cleared by the Clearing Member for which trade information was submitted for such day.

(3) The total number of contracts comprising the in-person MM trades cleared by the Clearing Member during such day.

With respect to a Clearing Member which has more than one clearing number assigned to it by the Exchange, each division of such Clearing Member represented by a separate clearing number shall be treated as a separate Clearing Member for all purposes of Rule 2.30.

(c) [Reserved]

(d) *Time of execution.*—(1) *General rule.* For purposes of Rule 2.30, the time of execution shall be the time recorded by the Market-Maker on the related card or ticket pursuant to Rule 6.51, provided such time is accurate with respect to when the transaction actually occurred. If there is no time recorded on the card or ticket reporting the transaction, or the time recorded is not a valid time, the trade information for that transaction shall be deemed to have been submitted more than two (2) hours after the trade was executed. "Valid time" for purposes of this Rule means a time during which trading in the relevant option contract was eligible to take place.

(2) *Second Pass adds.* Trade information initially submitted after the computer processing run designated by the Exchange as "First Pass" shall be deemed to have been submitted more than two (2) hours after the trade was executed for purposes of this Rule.

(3) *Market-Maker RAES trades.* Trade information for a Market-Maker's side of a transaction executed on the Retail Automated Execution System ("RAES") shall be deemed to have been submitted in two (2) hours or less after the trade was executed for purposes of this Rule.

(4) *"As of" trades.* Trade information for transactions executed on a previous day, such as, "as of" trades, shall not be considered in applying this Rule.

(e) *Time of submission.* For purposes of Rule 2.30, the time of submission shall be determined in accordance with the provisions of Rule 6.58.

(f) *Exceptions.*—(1) *Deficient Clearing Member exception.* If, on a given day, the percentage of the total in-person MM trades cleared by a Clearing Member for which such Clearing Member submits the required trade information in two (2) hours or less is less than a stated percentage ("Substandard Timely CF Percentage"), any Market-Maker clearing through that Clearing Member shall be charged only fifty per cent (50%) of any charge such Market-Maker would otherwise incur under subparagraph (a) of this Rule 2.30, with respect to trades cleared through such Clearing Member. The Substandard Timely CF Percentage shall change based on the following schedule:

Date substandard timely CF percentage goes into effect	Substandard timely CF percentage of TRADES (records) for day (percent)
Date Rule 2.30 goes into effect	45
Three (3) calendar months after the effective date of Rule 2.30	50
Six (6) calendar months after the effective date of Rule 2.30	55

(2) *Extenuating circumstances*—(A) *Effect on Clearing Members; requirements.*

(i) A Clearing Member shall incur no chares under Subparagraph (b) of this Rule 2.30 for a given day if timely submission of trade information to the Exchange was prevented by extenuating circumstances beyond the control of the Clearing Member.

(ii) The inability to make timely submissions due to circumstances which fall under Subparagraph (f)(2)(A)(i) must remain in existence for at least thirty (30) continuous minutes or for at least sixty (60) intermittent minutes during a given day in order for this exception to apply. With respect to such circumstances which are attributable to a problem created by the Exchange and which relate to fewer than seven (7) specific Clearing Members, the time period(s) for determining whether the thirty or sixty minute minimum periods have occurred will commence for a given Clearing Member at the time when

that Clearing Member notifies the Exchange's Trade Processing Window personnel that a problem exists, based on the time recorded by the Trade Processing Window personnel receiving such notice, unless such Exchange personnel are already aware of such problem, in which case the time period(s) will commence at the time when the Exchange personnel became so aware.

(iii) An act or ommission by an agent of a Clearing Member shall not, in itself, be considered extenuating circumstances beyond the control of the Clearing Member.

(B) *Effect on Market-Makers.* If the exception in subparagraph (f)(2)(A) of this Rule 2.30 applies to a Clearing Member for a given day, then any Market-Maker using such Clearing Member shall incur no charges under subparagraph (a) of this Rule 2.30 for such day with respect to trades which were cleared by that Clearing Member.

(C) *Examples of extenuating circumstances.* Examples of extenuating circumstances beyond the control of a Clearing Member are:

(i) Hurricane, lightning, or other force majeure which directly causes the inability to submit data;

(g) Suspension of fee under unusual circumstances.

Under unusual circumstances which will affect or have affected the ability of a significant number of Market-Makers and/or Clearing Members to submit trade information to the Exchange on a timely basis, the Clearing Procedures Committee may, with the approval of the President of the Exchange or of the President's designee, suspend application of Rule 2.30 for a period not to exceed seven (7), calendar days at any one time (which may be extended by subsequent suspensions each effected by the procedures required by this subparagraph). Such a suspension order, which may be retroactive, shall be in writing and state the reasons therefor. It shall be communicated to the membership by Exchange publication, which may be after the effective date, and shall be kept on record by the Secretary of the Exchange.

(h) Appeals—(1) *Verfication procedures*—(A) *For member charged.* A member upon whom a fee is imposed under this Rule 2.30 may use the verification procedures set forth in part B of chapter XIX with respect to such fee. The member may appeal the determination made on such a request for verification under part A of chapter XIX. A member may not appeal a fee imposed under this Rule 2.30 unless a valid request for verification has been made.

(B) *For Clearing Member required to collect.* The procedures of subparagraph (h)(1)(A) shall also apply to a Clearing Member required to collect a Rule 2.30 fee, which Clearing Member disputes that, during the relevant time period, it acted as the Clearing Member for the Market-Maker upon whom the Rule 2.30 fee was imposed.

(2) *Excluded defenses.* The following facts and circumstances shall be excluded from consideration regarding any challenge to a fee imposed under this Rule 2.30:

(A) Failure of a Clearing Member to pick up or otherwise collect Market-Maker trading cards or tickets on a timely basis;

(B) Failure of a Clearing Member to efficiently process and submit to the Exchange the transaction information contained on Market-Maker trading cards or tickets; and

(C) Failure of one or more Market-Makers to turn in their trading cards or tickets to their Clearing Member on a timely basis.

The fee imposed by this Rule is intended to offset the significant expenditures made by the Exchagne in providing members with an intraday trade match service which benefits the entire Exchange community and to offset the additional expenditures and complexities associated with handling trade information submitted by members on a delayed basis. Since the Market-Marker chooses the Clearing Member who will act as his or her agent for trade clearance purposes and since Clearing Members choose the Market-Makers for whom they will provide such service, the Exchange has adotped the policy of excluding the above defenses as a fair and reasonable means to avoid the costly and time-consuming process of having to determine whether the cause of a delayed submission was due to a Market-Maker or the Market-Maker's Clearing Member.

Rule 6.58 Submission of Trade Information to the Exchange

(a) *Required format and manner.* All trade information required by Rule 6.51 shall be submitted to the Exchange in such form and manner as may be prescribed by the Exchange.

(b) *Time of submission.*—(1) *General rule.* Trade information shall be considered to have been received by the Exchange as of the Time electonically recorded by the Exchange computer system when such trade information has been entered into an electronic file for processing by the appropriate Exchange computer system. The point in the system at which the time is electronically recorded shall be determined by the Exchange and uniformly applied to all submissions on any given day. The system may treat trade information contained in a batch transmission as not received until the last record in the batch has been entered into an electronic file. In the event subparagraph (b)(2) or (b)(3) of this Rule is applicable and the time of receipt by the Exchange as determined by such subparagraph is earlier than the time determined by this Subparagraph (b)(1), then the earlier time under subparagraph (b)(2) or (b)(3) shall be controlling; otherwise, the time determined by this subparagraph (b)(1) shall apply.

(2) *Submission by electronic transmission.* (A) Except as provided in subparagraph (b)(2)(B) of this Rule, trade information submitted by electronic transmission to the Exchange computer system shall be considered received by the Exchange as of the time eletroicaly recorded by the Exchange computer as specified in Subpargraph (b)(1).

(B) In the event a Clearing Member attempts to send trade information by electronic transmission but is unable to get through the Exchange computer system, the Clearing Member may contact the Exchange's Trade Processing Window Department to inquire if the Exchange's system is ready to receive such Clearing Member's transmission.

(i) If the Exchange determines that its system was not so ready, any trade information submitted by such Clearing Member within ten (10) minutes of being informed by Trade Processing Window personnel that the Exchange's system is so ready will be considered received by the Exchange as of the time the Clearing Member contacted the Trade Processing Window, based on the time recorded by the Trade Processing Window personnel handling the inquiry.

(ii) If the Exchange determines that its system was and remains so ready, it will reset the line at the Exchange's end and so inform the Clearing Member. Any trade information submitted by such Clearing Member within ten (10) minutes of being informed by Trade Processing Window personnel that the Exchange's system remains ready to accept such data and the line has been reset will be considered received by the Exchange as of the time the Clearing Member contacted the Trade Processing Window, based on the time recorded by the Trade Processing Window personnel handling the inquiry. Such procedure shall apply only once for any given day, and repetitive use of this subparagraph by any Clearing Member shall be investigated. Employing this

subparagraph when no acual attempt was made to transmit trade information shall cause this subparagraph to be inapplicable and such action shall be considered conduct inconsistent with just and equitable principles of trade.

(3) *Submission on diskette or tape.* Trade information delivered on computer diskette or tape to the Trade Processing Window shall be considered received by the Exchange fifteen (15) minutes after the time stamped on the paper exchange given by the Trade Processing Window personnel to the Clearing Member's representative who delivered such diskette or tape, provided that all trade data contained on the diskette or tape delivered, or on any backup diskette or tape delivered at the same time, can be successfully loaded into the Exchange computer system without any difficulty.

Chapter XIX

Part B—Verification Procedures

Rule 19.50 Scope of Part B

Part B of this chapter provides procedures for a member to seek verification of fees and other changes imposed on such member by the Exchange. The procedures of part B of this chapter are separate from part A and shall apply only if the Rule or other authority for imposing the relevant fee or charge expressly so provides.

Rule 19.51. Definitions

For purposes of this Rule the following definitions shall apply.

(a) *Charge.* "Charge" shall mean a fee or other charge imposed on a member by the Exchange.

(b) [Reserved]

Rule 19.52. Requests for Verification

(a) *Deadlines;* manner and form. When a charge to which part B of chapter XIX applies is billed, the Exchange shall set a time period, which shall be no shorter than fifteen (15) days, for the member to request verification of the charge. Such requests shall be made in the manner and form required by the Exchange. During the verification process, the Exchange may require that substantiating evidence must be provided by the member requesting verification by a stated deadline which shall be no earlier than seven (7) days after notice of such deadline is sent to such member.

(b) *Factual issues only.* Requests for verification shall deal solely with factual issues and the application thereto of the Rule or other authority under which the charge was imposed.

(c) *Determinations.* Exchange employees shall verify the accuracy of the charge for which a request for verification was made and determine whether the charge should remain as billed or should be modified or eliminated. The Exchange may require the member who requested verification to submit documentary evidence or other information supporting the requester's position. The burden shall be on such member to produce such pertinent evidence or information. The Exchange shall not be required to take extraordinary steps or spend an unreasonable amount of time in investigating any request for verification. Notice of the determination made shall be given in writing to the member who made the request.

(d) *Appeal of request for verification.* A determination on a request for verification may be appealed under Part A of chapter XIX of the Rules only if the Rule or other authority for imposing the relevant charge expressly so provides.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CBOE Introduces Intraday Trade Matching

The Exchange matches the daa recorded by the purchasing member withth data recorded by the selling member for each transaction executed at the CBOE. Clearing members are advised of transactions for which matching buy and sell data has not be submitted. After allowing the relevant clearing members to submit corrections or changes, the matched transaction data is sent by CBOE to the Options Clearing Corporation for clearance and settlement.

The trade matching process at the CBOE has traditionally been performed by making computer runs in the evening hours after trading for the day has ceased. In April 1990, the CBOE began to provide an intraday trade matching service on an Exchange-wide basis. In brief, the Exchange is now making data comparison computer runs during each trading day instead of starting that process after the close of trading.

The advantages are substantial. Transactions for which the buying and selling sides do not match ("outtraders") are identified much sooner. This facilitates the resolution of problems. For example, the relevant members, clerks, and key punchers for both sides of the transaction are all present during trading hours and can deal with miscommunications or recording errors much quicker than after trading hours when they have left and the night trade checkers must handle the situation. Now, when a member makes a trading error which is identified during the day, that member will be able to take corrective action with another transaction before trading ceases that day. In addition, since much of the comparison process occurs during the day, the Exchange and member firms can reduce the staff that was needed for night duty when matching began in the early evening. From an overall standpoint, faster matching improves the integrity and efficiency of the trade comparison and clearance process.

Additional Fee for Delayed Submissions

The Exchange currently charges separate transaction and trade match fees for each contract bought or sold at the Exchange. The proposed rule will establish fee when the purchasing or selling market maker chooses to submit transaction data on a delayed basis for trade match purposes. In the new intraday trade match environment, members who submit transaction data more than two hours after those trades occurred are creating more work for the Exchange. Simply stated, it is more difficult and time-consuming to manage a system geared to matching trades during the day if some market makers or clearing firms are not submitting information on a timely basis.

Set forth below is the fundamental problem created, along with a few examples of the additional time and expenditures necessitated, when significant amounts of transaction data are submitted several hours after the respective trades took place.

—The basic problem arises when the data for one side of a transaction is submitted on a timely basis, but the data for the other side is not. If this happens and the Exchange makes a comparison run, the computer will find the side that was entered but no matching data for the other side. As a

result, it will generate an outtrade report for that transaction.

If the other side had simply submitted the information in a timely fashion, the comparison process would have been completed, with no further attention necessary to that transaction (assuming the absence of other problems). Instead, due to the delayed submission by one side, there is now an outtrade that must be dealt with.

—The Exchange produces listings of outtrades at various times during the day. When a number of market makers or clearing firms submit information on a delayed basis, the outtrade listings are very extensive, and, thus, the information they convey is of limited value. In an effort to provide more meaningful data to the clearing firms, the Exchange now runs additional listings which are designed to exclude many of the "outtrades" which arise when one side has delayed in submitting its information. If both sides to most transactions submitted the relevant information on a timely basis, then these extra listings would not be necessary since substantially fewer "outtrades' would appear on the listings.

—The Exchange runs intraday trade-checking sessions which take much more time and are much less productive than would be the case if all data were submitted within the two-hour period set forth in the proposed rules.

—The Exchange monitors clearing firm submissions to detect firms which may be experiencing problems. It is vital to the overnight clearance and next day settlement requirement that any significant problems in the trade match process be identified and dealt with as quickly as possible. With the advent of intraday trade matching, clearing firms are submitting data throughout the day. If a firm is not making submissions on a timely basis, it is not clear whether that is due to a problem or simply a decision to hold off and submit later. This leads to more Exchange effort to detect and confirm problem situations that must be addressed.

Only Market Makers Included

The fee that will be established by the proposed rule relates only to transactions executed in person by market makers. As a group, these are the transactions which are being submitted the latest and are giving rise to most of the additional time and effort in running the intraday program. Floor brokers are not subject to this fee for two principal reasons. First, as a group their transaction information is being submitted on a timely basis. Since their own customers judge their performance at least partially on how quickly they can execute orders, there is an inherent incentive for floor brokers to report transaction data quickly back to the member placing the order. In most cases that member is a clearing member with the technical capability to submit the information reported by the floor broker almost immediately to the Exchange for trade match purposes.

The second reason floor brokers are not covered by the proposed fee is that some of the orders they execute might require different criteria than that used for market maker transactions. For example, brokers who handle a large number of spread orders may take a substantial period of time to fill both sides of a given order. Having them submit one side of an order when it is completed could be undesirable if it leads to the possibility of duplicating that transaction in the system when the whole order is completed. The Exchange is currently reviewing floor broker transactions to determine if a fee is warranted and, if so, what criteria would be appropriate.

Amount of Fee is Reasonable

The fee which will be imposed is modest. Based on May 1990 data the following total charges would have resulted had the fee been in effect for that month:

—52% of all market makers would have incurred no fee or total fees amounting to less than $25.

—86% of all market makers would have incurred no fee or total fees amounting to less than $100.

—The highest total charges any market maker would have incurred for the month would have been $1,055.

—22 clearing firms would have incurred fees which averaged $1,852 for the month.

—The highest total charges any clearing firm would have incurred for the month would have been $6,596.

Provisions to Avoid

Unfair Charges are Included

The proposed rules were devised so as to ensure that the fee is equitably allocated among the membership. Timely submission of transaction data requires that a market maker turn over trading cards promptly to his or her clearing firm, and then that the clearing firm process the information efficiently and submit it to the Exchange. Given this mutual dependence, the rule imposes parallel fees on market makers and clearing firms.

There is an exception for a market maker when his or her clearing firm fails to meet a minimum timely percentage for all in-person market maker trades on a given day. When that exception applies, the market maker is charged only 50% of the normal amount. The entire charge is not waived, because the market maker could have been a contributing factor. In addition, a complete waiver would eliminate all incentive for market makers to promptly turn over cards to their clearing firm, thus causing the firm to incur the fee while exempting the market makers who were actually precipitating the problem.

There is another exception that deals with a clearing firm which is prevented from making timely submissions due to extenuating circumstances. If that exception applies, the firm and all market makers clearing through it will not be charged for that day.

Finally, the rules establish a verification process which any member incurring the proposed fee may invoke to have the amount the member was charged verified by the Exchange. This will ensure that the appropriate amount is being charged and that no exception applies. At the same time, certain defenses to the proposed charges are specifically excluded. They relate to whether it was the market maker or the clearing firm which caused the transaction data to be submitted late. This is to enable the efficient billing and collection of a legitimate fee. It avoids devoting substantial Exchange resources to the resolution of contests over small amounts. It is a reasonable approach given that each market maker chooses which clearing firm will act as his or her agent and each clearing firm chooses which market makers it will take as clients. In other words, it is fair to leave it to them to settle their own disputes as to who may have caused the fee to be imposed in any given situation.

Statutory Basis for Rule

The Exchange believes that the proposed fee will result in charges which are equitably allocated among the CBOE membership and that the amounts charged will be reasonable, especially in light of the additional burden caused by market makers and clearing firms who choose to submit trade information on a delayed basis. Furthermore, the proposed rule changes are consistent with the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder. In particular, the proposed rules are consistent with the following sections of the Act which provide, among other things, that the rules of the Exchange:

—Provide for the equitable allocation of reasonable fees among its members (Section 6(b)(4)); and
—Be designed to foster cooperation and coordination with persons engaged in clearing transactions in securities (Section 6(b)(5)).

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regultory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth St., NW. Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth St., NW., Washington DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-CBOE-90-06 and should be submitted by August 30, 1990.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 3, 1990.

Secretary,

Jonathan G. Katz.

[FR Doc. 90-18718 Filed 8-8-90; 8:45 am]

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[Rel. No. 34-28293; File No. SR-CSE-90-04]

Self-Regulatory Organizations; Cincinnati Stock Exchange; Order Approving Proposed Rule Change Relating to the Listing and Delisting of Exchange Issues

I. Introduction

On February 12, 1990, the Cincinnati Stock Exchange ("CSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend Exchange Article IV, sections 1 and 3, to increase the standards for listing securities on the Exchange and to set forth specific standards for suspending and/or delisting securities currently listed on the Exchange.[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 27734 (February 26, 1990), 55 FR 7859 (March 5, 1990). No comments were received on the proposal.

II. Description of the Proposal

a. Listing Standards for Common Stock

The CSE proposes to modify substantially the Exchange listing criteria. Exchange Article IV, section 1.3, currently sets forth the quantitive standards for listing securities on the Exchange. In order for a security to be listed, this section currently requires that an issuer have: (1) Net tangible assets of at least $750,000; (2) at least 75 recordholders of the issue for which trading privileges have been granted or are requested; and (3) at least 45,000 shares of $1 million principal amount outstanding of the issue for which trading privileges have been granted or are requested. The CSE proposes to increase these numerical standards as follows: the net tangible assets requirement would be increased from the current $750,000 to $2,000,000; the required number of outstanding shares would be increased from the current level of 45,000 to 250,000; [4] and the required number of recordholders would be increased from 75 to 1,000.[5]

The Exchange also proposes to add two new subsections to section 1.3(1) dealing with the listing of common stock on the Exchange.[6] New subsection 1.3(1)(d) would require an issuer to have demonstrated net earnings of $200,000 annually before taxes, excluding non-recurring income, for the two years prior to its listing application. New subsection 1.3(1)(e) would require that an issuer have been actively engaged in business and have been so operating for at least three consecutive years in order to list a security on the Exchange.

b. Listing Standards for Preferred Stock, Warrants, and Bonds

In addition to raising its standards for listing common stock, the Exchange proposes new standards for the listing of preferred stock, warrants, and bonds on the Exchange. Requirements for the listing of preferred stock on the Exchange would be codified in new section 1.3(2). This section would require that for preferred stock to be listed on the Exchange, the issuer must have at least 500 recordholders of the issue for which trading privileges have been granted or are requested; at least 200,000 shares for which trading privileges have been granted or are registered, exclusive of the holdings of officers and directors; and have a class of common stock that would otherwise be eligible for listing on the Exchange or that is already listed on the Exchange.

Under the CSE proposal, new section 1.3(3) would set forth Exchange requirements for listing warrants on the

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] Subsequent to filing the proposed rule change, the Exchange deleted from the rule filing the following provision which originally had been proposed under section 1.3(3): "Minimum Requirements. The Listing Committee may weigh each requirement separately and will judge the qualifications of each applicant on its own merits. The Listing Committee may also consider any other factor which, in its judgment, is necessary for the protection of investors and the public interest." *See* letter from Craig R. Carberry, Vice President, Market Regulation, CSE, to Elizabeth A. Pucciarelli, Attorney, Branch of Exchange Regulation, Division of Market Regulation, SEC, dated May 15, 1990.

[4] In calculating public distribution, the Exchange proposes new language that would require that the outstanding share requirement be satisfied exclusive of the holdings of officers and directors. The Exchange also proposes to delete the alternative standard of a $1 million principal amount of the issue.

[5] The Exchange also proposes to change the name of the Exchange Committee that reviews listing applications from Securities Committee to Listing Committee. Therefore, in section 1.2, all references to Securities Committee would be replaced with the term Listing Committee.

[6] The subsections under section 1.3 are currently numbered (1) through (3). Under the new proposal, they will be renumbered and two new subsections will be added under section 1.3(1).

Exchange. This section would require that an issuer have at least 250 warrant holders of record; at least 250,000 warrants outstanding, exclusive of the holdings of officers and directors; and have a class of common stock that would otherwise be eligible for listing on the Exchange or that is already listed on the Exchange.

New section 1.3(4) would quantify Exchange requirements for the listing of bonds. Under this section, an issuer would be required to have a principal amount outstanding of at least $2,000,000; an aggregate market value of at least $2,000,000; at least 250 holders of record; and have a class of common stock that would otherwise be eligible for listing on the Exchange or that is already listed on the Exchange. In the case of convertible debt, this section states that a larger distribution may be required.

Finally, the CSE proposes to exempt three issues presently listed on the Exchange that would be affected by the new requirement.[7]

C. Delisting Standards

The CSE also proposes revisions to article IV, section 3, entitled Delisting, to codify the factors to be considered by the Exchange's Listing Committee when suspending or delisting an issue previously admitted to trading on the Exchange.[8] First, the Exchange proposes to add new section 3.1(a) which would empower the Exchange's Board of Trustees with the authority to suspend dealings in any issue admitted to trading on the Exchange.[9] Currently, the Exchange's rules only allow the Board of Trustees to delist an issue. Second, the Exchange proposes to add a new subsection 3.1(c) which would provide standards for the suspension or delisting of an issue. Under this new subsection, a security would be subject to suspension and/or delisting if any of the following conditions are found to exist: (1) Failure to comply with the listing standards and agreements; and (2) sustained loss so that an issuer's financial condition becomes so impaired that it is questionable to the Exchange whether the company can continue operations and/or meet its obligations as they mature. The Exchange also proposes to add a general paragraph to section 3.1 which would provide the Exchange's Board of Trustees with the discretion to determine whether the suspension of trading or the delisting of an issue is necessary for the protection of investors and the public interest.

III. Discussion

The development and enforcement of adequate standards governing the listing of securities on an exchange is an activity of critical importance to exchange markets and to the investing public. Listing standards serve as a means for the self-regulatory organizations ("SROs") to screen issuers and to provide listed status only to bona fide companies with substantial enough float, investor base, and trading interest to ensure sufficient liquidity for fair and orderly markets. They also enable an exchange to assure itself of the bona fides of the company and its past trading history.

Of equal importance to the development of adequate standards for initial inclusion on an exchange are adequate maintenance standards. Once an issue has been initially approved for listing, an exchange must monitor continually the status and trading characteristics of that issue to ensure that it continues to meet exchange standards for trading depth and liquidity.

The Commission recently enacted Rule 15c2–6 under the Act top address a growing concern with the widespread incidence of misconduct by some broker-dealers in connection with transactions in low-priced stocks, commonly referred to as "penny stocks," that are traded predominantly in the over-the-counter market and quoted in the "pink sheets." [10] Rule 15c2–6, which became effective on January 1, 1990, imposes various sales practice requirements on broker-dealers who recommend purchases of certain low-priced securities to persons who are not established customers. Because exchange-listed securities or securities authorized for quotation on the National Association of Securities Dealers, Inc.'s Automated Quotation ("NASDAQ") system are exempt from Rule 15c2–6,[11] stringent quantitative listing and maintenance standards for exchange-listed securities should help ensure that certain issuers do not circumvent the requirements of this Rule by seeking to list their securities on regional exchanges. As the Commission noted in the release adopting Rule 15c2–6, it expects the exchanges to join it in closely monitoring for fraudulent sales practices in exchange securities in order to prevent the transfer of such activities from the pink sheet market to the exchange market.[12] The Commission believes that the CSE proposal to increase its listing standards and set forth specific standards for suspending or delisting listed securities is consistent with section 6(b)(5) of the Act in that it will help to ensure the maintenance of fair and orderly markets on the CSE. The proposed increases in the Exchange's numerical listing criteria for common stock are substantial: the current assets criterion of at least $750,000 will more than double to a requirement that an issuer have net tangible assets of at least $2 million. The required number of recordholders will increase more than 13 times, from 75 to 1,000. The required number of shares outstanding will increase more than five times, from 45,000 to 250,000. In addition, the Exchange is adding several new requirements to its numerical standards that will make the Exchange's listing standards more stringent. First, the required amount of public distribution must be satisfied exclusive of the holdings of officers and directors. Second, the issuer would be required to have pre-tax earnings of $200,000 annually for the two years preceeding its listing application. Finally, the issuer must have been actively engaged in business for the three years preceding its application.

The Commission believes that the proposed increases in standards for listing common stock and new standards for listing preferred stock, warrants, and bonds on the Exchange will enhance investor benefits and protections in trading on the CSE. The CSE's proposal would ensure that only bona fide companies capable of meeting their financial obligations will be eligible for listing and that there will be broad public ownership of the issuer's securities. The CSE's new earnings requirement, that an issuer have demonstrated net earnings of $200,000 annually for the two years prior to its listing application, is of particular significance because a consistent

[7] In the original filing, the Exchange proposed that the new listing standards apply to all listing applications submitted after January 1, 1990. The Exchange has withdrawn this aspect of the proposal. *See* letter from David Colker, Senior Vice President, CSE, to Mary Revell, Branch Chief, Division of Market Regulation, dated July 24, 1990.

[8] The Exchange proposes to rename section 3, currently entitled Delistiing, to Delisting of Securities, and section 3.1, currently entitled Delisting by Exchange, to Suspension and/or Delisting by Exchange.

[9] The existing language under section 3.1 dealing with the Board of Trustees' power to delist securities would be moved to section 3.1(b).

[10] 17 CFR 240.15c2–6 (1989).

[11] Rule 15c2–6 exempts from its requirements securities that are registered on a national securities exchange that makes transaction reports available pursuant to Rule 11Aa3–1 under the Act or approved for quotation in the NASDAQ system. 17 CFR 240.15c2–6(c) (1989).

[12] *See* Securities Exchange Act Release No. 27160 (August 22, 1989), 54 FR 35468.

earnings record generally indicates that a company is meeting its financial obligations and still generating income for its operations and its public shareholders. In addition, the Commission believes that significantly increasing the required number of public record holders will help ensure a wider public distribution of an issuer's stock. The Commission believes that a wider public distribution of shares resulting from an increased number of holders will decrease the opportunities for manipulation, as well as help create a more liquid market for trading.

In addition, by making the Exchange's numerical listing criteria comparable to the current listing standards of the other regional exchanges, the CSE proposal will help to provide consistency in listing standards among the exchanges. For example, the CSE's new standards closely parallel existing quantitative listing standards for several types of issues on the Midwest Stock Exchange.[13] The Commission further believes that the CSE's intention to exempt three previously listed companies from these new standards is appropriate based on representations by the Exchange that these are local companies that have been listed on the CSE for many years.[14]

Finally, the proposed rule change will increase the effectiveness of Rule 15c2–6 of the Act. The new, more stringent listing requirements of this CSE will help prevent low-priced securities of companies without substantial float, assets, and shareholders from circumventing the protections of Rule 15c2–6 by listing on the CSE.

With regard to the Exchange's codification of its existing delisting policies in section 3.1, the Commission believes that they will help ensure the quality of the CSE marketplace by assisting the Exchange in monitoring its listed issuers to ensure that they adequately maintain Exchange standards. by subjecting the securities of an issuer to suspension and/or delisting if the issuer fails to comply with the listing standards or its financial condition deteriorates to the extent that it becomes questionable to the Exchange whether the company can continue to meet its financial obligations as they come due, the Exchange is further ensuring the stability of its marketplace, as well as protecting investors. These provisions also will serve to keep listed companies informed of the required listing standards of the Exchange. In addition, the Commission notes that proposed section 1.3(a), empowering the Exchange's Board of Trustees with the discretion to suspend dealings in any listed security, is similar to existing provisions in the rules of other exchanges.[15]

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of section 6 of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[16] in that it is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest. The Commission believes that the proposed rule change enhances the quality of the Exchange marketplace by helping to ensure that only legitimate business enterprises are listed and traded on the Exchange.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[17] That the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Dated: August 1, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–18616 Filed 8–8–90; 8:45 am]

BILLING CODE 8010–01–M

[REL. No. 34–28301; File No. SR–MSRB–90–2]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Extension of Public Comment Period for Proposed Rule Change

On June 22, 1990, the Municipal Securities Rulemaking Board ("MSRB") submitted a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange act of 1934 (Act), 15 U.S.C. 78s(b)(1) and Rule 19b–4 thereunder, that would permit the Board to establish and operate a central electronic facility, the Municipal Securities Information Library, through which information regarding municipal securities and their issuers would be made available to market participants and information vendors. Notice of the proposed rule change was provided by the issuance of a Commission release (Securities Exchange Act Release No. 28197, July 12, 1990) and by publication in the **Federal Register** (55 FR 29436, July 19, 1990).

The Commission received five requests for extension of the period for public comment.[1] Commentators cited the length and complexity of the filing, its importance to the municipal securities industry, and the fact that the initial comment period falls in July and August, when many interested parties have scheduled vacation.

The MSRB objected to an exension of the period for public comment on the proposed rule change, but alternatively urged an extension not beyond the middle of September.[2]

The Commission hereby extends the period for public comment on the proposed rule change for a period of forty-five days, from August 9, 1990 until September 24, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegate authority.

Dated: August 2, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–18607 Filed 8–8–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–28302; File No. SR–MSRB–90–3]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Extension of Public Comment Period for Proposed Rule Change

On June 22, 1990, the Municipal Securities Rulemaking Board ("MSRB")

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[13] *See* Midwest Rules, Article XXVIII, Rule 7. *See also*, rules of the Pacific, Philadelphia, and Boston Stock Exchanges and proposal by the National Association of Securities Dealers, Inc. ("NASD") to raise significantly the standards for inclusion in the NASDAQ System. Securities Exchange Act Release No. 27906 (April 13, 1990), 55 FR 15052 (April 20, 1990) (File No. SR–NASD–90–18).

[14] Telephone conversation between David Colker, Senior Vice President, CSE, and Elizabeth Pucciarelli, Attorney, Branch of Exchange Regulation, Division of Market Regulation, on July 25, 1990.

[15] *See, e.g.*, Pacific Stock Exchange Rule 1, section 3(c).

[16] 15 U.S.C. 78f(b)(5) (1982).

[17] 15 U.S.C. 78s(b)(2) (1982).

[18] 17 CFR 200.30–3(a)(12) (1989).

[1] *See* letters to Kathryn Natale, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, from David R. Franscescani, Executive Vice President and General Counsel, J.J. Kenney Co., Inc., dated July 16, 1990 and July 18, 1990; letter to Kathryn Natale from Jeffrey L. Esser, Executive Director, Government Finance Officers Association, dated July 17, 1990; letter to Kathryn Natale from Mary Ellen Withrow, President, National Association of State Auditors, Comptrollers and Treasurers, dated July 17, 1990; letters to Kathryn Natale from Paul C. Fiduccia, Counsel, National Council of Health Facilities Finance Authorities, dated July 18, 1990 and July 23, 1990; and letters to Kathryn Natale from Theodore M. Hesser, President, National Association of Bond Lawyers, one undated and received July 20, 1990, one dated July 31, 1990.

[2] *See* letter to Kathryn Natale, from Thomas Sexton, Chairman, NSRB, dated July 20, 1990.

submitted a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (Act), 15 U.S.C. 78s(b)(1) and Rule 19b–4 thereunder, that would amend Rule G–36 to require underwriters to deliver advance refunding documents to the MSRB. Notice of the proposed rule change was provided by the issuance of a Commission release (Securities Exchange Act Release No. 28198, July 12, 1990) and by publication in the **Federal Register** (55 FR 29687, July 20, 1990).

The Commission received five requests for extension of the period for public comment.[1] Commentators cited the length and complexity of the filing, its importance to the municipal securities industry, and the fact that the initial comment period falls in July and August, when many interested parties have scheduled vacation.

The MSRB objected to an extension of the period for public comment on the proposed rule change, but alternatively urged an extension not beyond the middle of September.[2]

The Commission hereby extends the period for public comment on the proposed rule change for a period of forty-five days, from August 10, 1990 until September 24, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 2, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–18610 Filed 8–8–90; 8:45 am]

BILLING CODE 8010–01–M

[1] *See* letters to Kathryn Natale, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, from David R. Franscescani, Executive Vice President and General Counsel, J.J. Kenney Co., Inc., dated July 16, 1990 and July 18, 1990; letter to Kathryn Natale from Jeffery L. Esser, Executive Director, Government Finance Officers Association, dated July 17, 1990; letter to Kathryn Natale from Mary Ellen Withrow, President, National Association of State Auditors, Comptrollers and Treasurers, dated July 17, 1990; letters to Kathryn Natale from Paul C. Fiduccia, Counsel, National Council of Health Facilities Finance Authorities, dated July 18, 1990 and July 23, 1990; and letters to Kathryn Natale from Theodore M. Hester, President, National Association of Bond Lawyers, one undated and received July 20, 1990, one dated July 31, 1990.

[2] *See* letter to Kathryn Natale, from Thomas Sexton, Chairman, MSRB, dated July 20, 1990.

[Res No. 34–28303; File No. SR–MSRB–90–4]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Extension of Public Comment Period for Proposed Rule Change

On June 22, 1990 the Municipal Securities Rulemaking Board ("MSRB") submited a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (Act), 15 U.S.C. 78s(b)(1) and Rule 19b–4 thereunder, that would establish a central facility to accept voluntary submission of Continuing Disclosure Information electronically. Notice of the proposed rule change was provided by the issuance of a Commission release (Securities Exchange Act Release No. 28199, July 12, 1990) and by publication in the **Federal Register** (55 FR 29691, July 20, 1990).

The Commission received five requests for extension of the period for public comment.[1] Commentators cited the length and complexity of the filing, its importance to the municipal securities industry, and the fact that the initial comment period falls in July and August, when many interested parties have scheduled vacation.

The MSRB objected to an extension of the period for public comment on the proposed rule change, but alternatively urged an extension not beyond the middle of September.[2]

The Commission hereby extends the period for public comment on the proposed rule change for a period of forty-five days, from August 10, 1990 until September 24, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 2, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–18611 Filed 8–8–90; 8:45 am]

BILLING CODE 8010–01–M

[1] *See* letters to Kathryn Natale, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, from David R. Franscescani, Executive Vice President and General Counsel, J.J. Kenney Co., Inc., Dated July 16, 1990 and July 18, 1990; letter to Kathryn Natale from Jeffrey L. Esser, Executive Director, Government Finance Officers Association, dated July 17, 1990; letter to Kathryn Natale from Mary Ellen Withrow, President, National Association of State Auditors, Comptrollers and Treasurers, dated July 17, 1990; letters to Kathryn Natale from Paul C. Fiduccia, Counsel, National Council of Health Facilities Finance Authorities, dated July 18, 1990 and July 23, 1990; and letters to Kathryn Natale from Theodore M. Hester, President, National Association of Bond Lawyers, one undated and received July 20, 1990, one dated July 31, 1990.

[2] See letter to Kathryn Natale, from Thomas Sexton, Chairman, MSRB, dated July 20, 1990.

[Rel. No. 34–28307; File No. SR–NSCC–90–10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving, on an Accelerated Basis, a Proposed Rule Change Regarding Comparison and Settlement of Municipal Bond Transactions

On May 17, 1990, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (SR–NSCC–90–10) which would permit members to settle transactions in certain municipal securities in NSCC's Continuous Net Settlement ("CNS") System. On July 3, 1990, notice of the proposal was published in the **Federal Register** to solicit comments from interested persons.[1] The Commission did not receive any comments.[2] This order approves the proposal on an accelerated basis.

I. Description

The proposal would authorize NSCC to clear and settle member transactions in book-entry-only municipal securities that are on deposit at The Depository Trust Company ("DTC") on a net basis by novation, through NSCC's CNS System. Currently, all successfully compared member trades in municipal securities enter NSCC's National Municipal Comparison System ("NMCS") and are processed in the Balance Order System on a trade-for-trade basis,[3] regardless of whether they

[1] *See* Securities Exchange Act Release No. 28145 (June 25, 1990), 55 FR 27538.

[2] On February 28, 1990, The Cashiers' Association of Wall Street, Inc. transmitted to NSCC a letter supporting the proposed netting procedure. *See* letter from Jack A. Palazzo, President, The Chashiers' Association of Wall Street, Inc., to Steve M. Labriola, Senior Vice President, NSCC.

[3] Under NSCC's procedures, municipal securities trades are processed as Special Trades in the Balance Order System on a trade-for-trade basis. NSCC will generate receive and deliver orders and guarantee the trades from the evening of the fourth business day after the trade ("T+4") until the end of T+5. These trades are generally subject to the same rules and procedures as balance orders issued in connection with the Balance Order System. The underlying purpose of Special Trading is an attempt to preserve the confidentiality of municipal securities dealers concerning their trading activity. In a traditional Balance Order System, inter-dealer brokers may net to zero, leaving municipal securities dealers to deliver securities to and receive payments from securities dealers they, in effect, traded with through the inter-dealer broker. For this reason, among others, municipal securities dealers historically have settled on a trade-for-trade basis with the inter-dealer broker.

are depository-eligible or book-entry-only securities. The proposal limits the processing of municipal securities in CNS to book-entry-only municipal securities.[4] NSCC ultimately plans to expand CNS processing to all depository-eligible municipal securities.

Under the proposed rule change, NSCC will process member transactions in book-entry-only municipal securities in CNS or on a trade-for-trade basis, according to instructions received. In order for the transaction to enter the CNS System, both sides to the transaction must select the CNS option (or maintain with NSCC standing CNS instructions) or the transaction will be processed in the Balance Order System on a trade-for-trade basis. Members may override a CNS standing instruction or a CNS instruction from the contra-side by submitting the transaction as a Special Trade.

The processing of municipal securities trades in CNS is virtually the same as for other debt securities. Members must submit trade data to NSCC by T+1 and corrected and supplemental trade data may be submitted until T+3. NSCC will guarantee municipal securities trades, except when-issued transactions, as of midnight on the day they are reported to members as compared, and, like all CNS trades, settlement occurs on T+5. Consistent with CNS processing procedures, NSCC will allow partial delivery of municipal securities. Unlike other CNS trades, NSCC has special procedures for recording and executing "buy-ins" in connection with municipal securities trades processed through CNS to ensure compliance with Municipal Securities Rulemaking Board ("MSRB") Rule G–12(h).[5]

[4] Book-entry-only securities are deposited at a depository in the form of a single (global) certificate issued in the depository's nominee name. Changes in ownership are recorded only by book-entry on the depository's records or those of its participants. Thus no certificate can be obtained by an owner of a book-entry-only security. To own these securities one must be a member of the depository or have an account with (directly or indirectly) a member of the depository.

[5] MSRB Rule G–12 sets forth the delivery requirements for municipal securities, such as the place and time of delivery, form of delivery, partial delivery, payment, and rejection. The close out provisions of MSRB Rule G–12(h) provide that a purchaser can close-out confirmed trades that have not been completed by the seller after giving the seller notice of intention to close-out and an opportunity for the seller to complete the transaction by: (i) Accepting substituted securities; (ii) buying-in the securities at the then current market value and charging the seller for the cost of the buy-in; and (iii) requiring the seller to repurchase the securities from the purchaser at cost plus accrued interest and any change in market value

II. Rationale

NSCC believes the proposal will facilitate the prompt and accurate clearance and settlement of securities transactions consistent with section 17A of the Act. NSCC also believes it is appropriate to implement CNS processing for regular-way transactions in municipal securities since participants in such securities have had the opportunity to become familiar with automated comparison facilities.

III. Discussion

The Commission believes NSCC proposal is consistent with Section 17A of the Act. Specifically, the Commission believes that the processing of depository-eligible municipal securities trades through CNS will promote the prompt and accurate clearance and settlement of securities transactions consistent with section 17A(b)(3)(A).

The proposed rule change is part of NSCC's continuing effort to integrate municipal bond transactions into a centralized and automated clearance and settlement system. Prior to 1982 most municipal securities were issued in bearer form. Settlement occurred through physical delivery of securities outside central clearing agencies. Because the ultimate delivery still occurred outside depositories, few transactions were submitted to clearing corporations for comparison. In 1982, Congress passed the Tax Equity and Fiscal Responsibility Act, which effectively eliminated the practice of issuing long-term municipal securities in bearer form.[6]

In 1982, the MSRB published for comment and amendment to MSRB Rule G–15 that would require certain customer transactions to the confirmed/affirmed and settled through the book-entry settlement systems offered by securities depositories if both parties to the trade were participants in the depository or used clearing agents that were depository participants.[7] In response to the then impending adoption of MSRB Rules relating to automated clearance and settlement of municipal securities transactions,[8] NSCC developed the Municipal Bond Comparison System ("MBCS") as a vehicle to bring municipal securities brokers and dealers into an automated comparison environment in conformity with MSRB Rules. Thereafter, NSCC has sought to integrate in stages, the clearance and settlement of municipal securities transactions in the national clearance and settlement system.

Initially, NSCC focused on report and format changes that required the buyer's and seller's trade input to indicate whether the bond was a registered or a coupon instrument,[9] and whether the transaction was executed on an exchange or in the over-the-counter ("OTC") market.[10] In August 1983, NSCC established new trade input procedures [11] and expanded NSCC's procedures for reconciling uncompared municipal bond transactions by extending NSCC's demand-as-of and demand-withhold provisions to municipal bond transactions and other OTC debt securities transactions.[12] NSCC also adopted interim processing procedures that allowed the submission of municipal securities trades for comparison as Special Trades. Under the interim procedures, MSRB procedures regarding close-out and delivery were applied to the Special Trades.

In 1984, NSCC proposed to allow members to compare municipal securities trades and settle those trades

[6] The Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") eliminated the exemption from U.S. income tax for non-registered form (bearer) municipal securities over one year in maturity issued after July 1, 1983. As a result, virtually all such municipal securities are in registered form. *See* Publ. Law 97–248, section 310(b), 96 Stat. 324, 595–600 (1982).

[7] *See* Municipal Securities Rulemaking Board, Automated Clearance and Settlement in the Municipal Securities Market, (March 31, 1988).

[8] *See* Securities Exchange Act Release No. 20365 (November 14, 1983), 48 FR 52531 (November 18, 1983) which amended MSRB Rules G–12 and G–15. The amendment to Rule G–15 regarding customer transactions applies to all securities with CUSIP numbers, not just depository-eligible securities as originally proposed. *See* text at n. 7, *supra*. Rule G–12, as amended, requires, among other things, inter-dealer transactions to be compared in an automated comparison system if the transaction was between participants (direct or indirect) in a registered clearing agency offering comparison services and the securities were eligible for automated comparison. The MSRB's automated clearance rules were implemented in two phases. The first phase that began on August 1, 1984, required the use of automated comparison and confirmation/affirmation systems. The second phase implemented on February 1, 1985, required the use of book-entry delivery systems.

[9] *See* Securities Exchange Act Release No. 18998 (August 23, 1982), 47 FR 37989 (August 27, 1982).

[10] If the buyer's and seller's trade input is the same or if the buyer's input does not specify the form of the instrument, NSCC would compare the transaction based on the seller's input.

[11] *See* Securities Exchange Act Release No. 20092 (August 17, 1983), 48 FR 38361.

[12] *See id.* at 2. These procedures allow members to delete or resolve previously dropped, uncompared, aged OTC debt securities trades, eliminating the necessity to resolve those trades outside NSCC. The proposal also amended NSCC's fee structure for processing demand-withhold advisories. Prior to approval of the proposed rule change, the demand-as-of and the demand-withhold provisions only applied to NSCC's Equity Comparison System. OTC debt securities trade data that was not compared was exited from NSCC's comparison system.

either on a trade-for-trade basis or through NSCC's CNS.[13] Although NSCC received Commission approval to do so, NSCC did not implement the CNS option in 1984 in order to allow members to become familiar with the automated comparison and settlement environment. The proposal also established a new category of membership for processing municipal securities transactions. Subsequently, however, NSCC decided to permit participants some exposure to CNS processing by allowing members to settle when-issued trades in CNS.[14]

The proposal would extend the benefits already enjoyed by broker-dealers and banks in the corporate, government, and mortgage-backed securities markets: increased efficiency, cost savings, and reduced counterparty credit risk.[15] CNS processing of municipal securities trades will reduce delivery and payment obligations to members. NSCC will accumulate a net long or short securities position in each eligible issue in which a member has traded, and automatically generate net receive or deliver quantities (versus net payment) within the book-entry system of a securities depository.[16] Thus the proposal will reduce both exposure and settlement costs for NSCC members.

The Commission believes that NSCC's proposal to allow the processing of transactions in book-entry-only municipal securities in CNS is a good first step. Ultimately, inclusion of municipal securities trades in CNS may be essential to settlement of municipal securities transactions in three business days instead of five business days, consistent with the Group of Thirty's recommendation.[17] Thus, the Commission would encourage NSCC to take the necessary steps to include all municipal securities in CNS as soon as it is feasible.[18]

The Commission believes NSCC has the capacity to handle the processing of municipal securities trades through CNS. NSCC has operated a CNS System for member trades in corporate securities since the 1970s and CNS processing now accounts for more than 90% of the dollar value of all trades executed on national securities exchanges and in OTC markets. NSCC also has processed municpal securities trades through the Balance Order System on a trade-for-trade basis for approximately seven years. In addition, NSCC has settled when-issued securities transactions through CNS since 1987 without any operational problems. Moreover, the anticipated number of securities transactions processed in CNS will account for less than ½ of 1% of total CNS activity.[19]

The commission believes the proposal is consistent with section 17A(b)(3)(A) because it facilitates the safeguarding of securities of funds in NSCC's custody or control or for which it is responsible. The proposal will reduce member exposure to the risk that the counterparties to the municipal securities trades will be unable to settle the transaction. NSCC, as with all CNS trades, will interpose itself between parties to the trade and guarantee settlement. In addition, if a member fails to satisfy a settlement obligation, NSCC has various mechanisms, including marks-to-the-market of fail positions, clearing fund deposits, and insolvency procedures, to reduce the likelihood of loss to its counterparties, other NSCC members, and NSCC. Moreover, the proposal will reduce the risk that the failure of one broker-dealer to settle may cause losses or the failure of other broker-dealers.[20]

The Commission believes "good cause" exist under section 19(b)(2) of the Act for approving this proposal prior to the thirtieth day after publication of notice. First, the inclusion of municipal securities in CNS will increase efficiency, reduce counterparty credit risk, and provide cost savings to NSCC members. Second, NSCC has previously obtained Commission approval to process municipal securities trades through CNS but decided not to implement CNS processing for municipal securities to allow municipal securities broker-dealer members to become familiar with the automated comparison and settlement environment.[21] Finally, notice of the proposal appeared in the **Federal Register** on July 3, 1990 and no comments have been received to date.[22] Therefore, the Commission finds that there is "good cause" under section 19(b)(2) of the Act for approving this proposal prior to the thirtieth day after publication of notice.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the Act and, in particular, section 17A of the Act.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act, That the proposed rule change (NSCC–90–10) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–18613 Filed 8–8–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–28300; File No. SR–Phlx–90–18]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Increasing the Eligible Order Size of AUTOM

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 19, 1990, the Philadelphia Stock Exchange ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to

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[13] *See* NSCC proposed rule change SR–NSCC–84–05; *see also* Securities Exchange Act Release Nos. 20795 (May 18, 1984), 49 FR 13614 (April 5, 1984) and 20976 (May 18, 1984), 49 FR 22427 (May 29, 1984).

[14] *See* Securities Exchange Act Release Nos. 22004 (May 1, 1985), 50 FR 19510 (May 8, 1985); and 22116 (June 5, 1985), 50 FR 24730 (June 12, 1985). NSCC participants have the option to settle when-issued trades on a trade-for-trade basis or through CNS.

[15] "Counterparty credit risk" is the risk to one party to a trade that the other party to the trade will default on its payment or delivery obligations.

[16] Members clearing transactions through NSCC's CNS System are required to maintain two separate accounts, *i.e.*, an account at NSCC and an account at a securities depository since CNS applies only to depository eligible securities. However, certain CNS sub-accounts, such as the Stock Borrow Account and the Expanded Fully-Paid-For Account are not available for municipal securities.

[17] *See Clearance and Settlement Systems in the World's Securities Markets,* (March, 1989) ("The Group of Thirty Report").

[18] For example, consideration must be given to accelerating the trade comparison process so that member trades are compared on a next-day basis instead of two business days. The Commission urges NSCC to develop, in consultation with the MSRB and NSCC's members, a timetable for "next-day" comparison of member trades in municipal securities consistent with the Group of Thirty's report and recommendations.

[19] *See* letter from Robert Schultz, Executive Vice President, NSCC, to Ester Saverson, Branch Chief, Commission, dated July 31, 1990.

[20] In a trade-for-trade system, each trade is settled individually, since the trades are not netted, thus the default by one party to a trade may affect the counterparty's liquidity, hence, his ability to settle other transactions due for settlement on the same day.

[21] *See* n. 14, *supra.*

[22] *See* n. 1, *supra.*

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to increase the eligible order size of the Exchange's Automated Options Market ("AUTOM") system, a pilot program, from ten (10) to one hundred (100) contracts. The AUTOM system provides electronic delivery of small options orders to the Phlx trading floor, as well as an automatic execution feature for certain options series. The Phlx proposes to permit delivery and manual execution of market, marketable limit and day orders for up to 100 options contracts directly to the specialist through the AUTOM system.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On March 31, 1988, the Commission filed an order granting accelerated approval of SR–Phlx–88–10, a proposed rule change establishing AUTOM on a pilot basis for market orders of up to five contracts for all exercise prices in the near month covering twelve Phlx equity options until June 30, 1988.[1] On June 30, 1988, the Commission approved SR–Phlx–88–22, authorizing an expansion of AUTOM to 37 Phlx equity options and extending the pilot through December 31, 1988.[2] On December 13, 1988, the Commission approved SE–Phlx–88–33 making all orders in all exercise prices and months in 37 options eligible for AUTOM and increasing the eligible order size to ten contracts.[3] At the same time, the Commission approved an extension of the pilot until december 31, 1989. On January 9, 1990, the Commission approved SR–Phlx–89–03, extending the pilot program until June 30, 1990.[4] In addition, the eligibility of day orders for delivery through the system was approved. Most recently, the commission approved SR–Phlx–90–16, extending the pilot program until December 31, 1990.[5]

The current proposal would increase from 10 to 100 the size of orders eligible to be routed through AUTOM, which the Phlx believes will increase overall AUTOM order flow. The Exchange believes that, by increasing such order flow, this proposal would extend AUTOM's benefits to additional firms and customers. The Exchange, thus, believes that the proposed rule change is consistent with Sections 11A (a)(1)(B) and (C)(i) of the Act in that the purpose of the development and implementation of AUTOM is to improve the efficiency of the execution of transactions in Phlx equity options through the use of new data processing and communications techniques. The Exchange also believes that the proposal is consistent with section 11A(a)(1)(C)(ii) of the Act in that it fosters fair competition among exchange markets in that other options exchanges currently have in place Commission approved options execution systems on pilot and permanent bases. In addition, the Phlx believes that the proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 30, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Dated: August 2, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–18617 Filed 8–8–90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–17640; File No. 812–7541]

Allstate Life Insurance Co. of New York; Application

August 1, 1990.

AGENCY: Securities and Exchange Commission ("SEC")

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Allstate Life Insurance Company of New York (the "Company"); Allstate Life of New York Variable Annuity Account II (the

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[1] *See* Securities Exchange Act Release No. 25540, March 31, 1988, 53 FR 11390, April 6, 1988.

[2] *See* Securities Exchange Act Release No. 25868, June 30, 1988, 53 FR 25563, July 7, 1988.

[3] *See* Securities Exchange Act Release No. 26354, December 13, 1988, 53 FR 51185, December 20, 1988.

[4] *See* Securities Exchange Act Release No. 27599, January 9, 1990, 55 FR 1751, January 18, 1990.

[5] *See* Securities Exchange Act Release No. 28265, July 26, 1990, 55 FR 31274, August 1, 1990.

[6] 17 CFR 200.30–3(A)(12) (1989).

"Variable Account"); Dean Witter Reynolds Inc. ("Dean Witter").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from sections 26(a)(2)(C) and 27(c)(2).

SUMMARY OF APPLICATION: Applicants seek an order to permit the deduction of a mortality and expense risk charge from the assets of the Variable Account under certain variable annuity contracts.

FILING DATE: June 15, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on August 27, 1990. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicants with the request, either personally or by mail and also send a copy to the Secretary of SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; the Company and the Variable Account, 3100 Sanders Road, Northbrook, Illinois 60062, Attention: Robert S. Seiler; Dean Witter, Two World Trade Center, New York, New York 10048, Attention: Dennis H. Greenwald.

FOR FURTHER INFORMATION CONTACT: Barry Miller, Staff Attorney at (202) 272–3012 or Heidi Stam, Special Counsel at (202) 272–2060, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier: 800/231–3282 (in Maryland 301/258–4300).

Applicants' Representations

1. The Company was incorporated in 1967 as a stock life insurance company under the laws of New York. The Company established the Variable Account as a segregated investment account on May 18, 1990, as a facility through which to set aside and invest assets attributable to certain flexible premium variable annuity contracts (the "Contracts"). Dean Witter is the principal underwriter of the Contracts.

2. The Contracts are designed for use by individuals in retirement plans which qualify for special federal income tax treatment under sections 401, 403 or 408 of the Internal Revenue Code ("qualified" plans and contracts) and in retirement plans which do not qualify for special tax treatment under those sections ("non-qualified" plans and contracts).

3. Purchase payments under the Contracts may be allocated, to one or more of the Sub-Accounts of the Variable Account. Each Sub-Account invests solely in shares of a particular portfolio of the Dean Witter Variable Investment Series.

4. The Company will deduct annually a contract maintenance charge of $30.00 from the contract value to reimburse the Company for its costs in maintaining each Contract and the Variable Account. The Company does not expect to realize a profit from this charge. The Company guarantees that the amount of the charge will not increase over the life of the Contract.

5. The Company will also deduct an administrative expense charge which is an amount equal on an annual basis to 0.10% of the daily net assets in the Variable Account. This charge is designed to cover actual administrative expenses which exceed the revenues from the contract maintenance charge. The Company believes that the administrative expense charge and the contract maintenance charge have been set at a level that will recover no more than the actual costs associated with administering the Contract.

6. The owner may withdraw the cash value at any time before the earlier of the payout start date or the annuitant's death. There is no contingent deferred sales load on the first withdrawal of each contract year on amounts up to the free withdrawal amount, i.e. 15% of purchase payments except purchase payments made within one year of the date of withdrawal. For purposes of calculating the amount of the contingent deferred sales load, withdrawals are assumed to come from purchase payments first, beginning with the oldest payment. Amounts withdrawn in excess of the free withdrawal amount are charged a contingent deferred sales load at a rate beginning at 6% and declining 1% for each complete contract year since the purchase payment was made. The cumulative total of all contingent deferred sales loads is guaranteed never to exceed 6% of an owner's purchase payments.

7. The Company will deduct a daily mortality and expense risk charge at an effective annual rate of 1.25% of the daily net assets of the Variable Account. The level of this charge is guaranteed and will not change. This charge is allocable approximately 0.85% to the Company's assumption of mortality risks, and approximately 0.40% to the assumption of expense risks. Under the Company's current procedures, these amounts are paid to the general account monthly. If the mortality and expense risk charge is insufficient to cover the Company's mortality costs and excess expenses, the Company will bear the loss. If the mortality and expense risk charge is more than sufficient, the Company will retain the balance as profit. The Company currently expects a profit from this charge. Any such profit, as well as any other profit realized by the Company and held in its general account, (which supports insurance and annuity obligations), would be available for any proper corporate purpose, including, but not limited to, payment of distribution expenses.

8. Applicants request that the Commission, pursuant to section 6(c) of the 1940 Act, grant an exemption in connection with Applicants' assessment of a mortality and and expense risk charge. Applicants assert that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

9. Applicants represent that the mortality and expense risk charge under the Contracts is consistent with the protection of investors and maintain that it is a reasonable and proper insurance charge. In return for this amount Applicants assert that the Company guarantees certain risks in the Contracts. Applicants submit that the mortality and expense risk charge is a reasonable charge to compensate the Company for the risk that annuitants under the Contracts will live longer as a group than has been anticipated in setting the annuity rates guaranteed in the Contracts; for the risk that the cash value will be less than the death benefit prior to the payout start date; and for the risk that the amounts realized from the contract maintenance charges will be insufficient to cover actual administrative expenses.

10. The Company represents that the mortality and expense risk charge is within the range of industry practice with respect to comparable annuity products. This representation is based upon the Company's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, existence of charge level guarantees and guaranteed annuity rates. The Company will maintain at its home office, available to the Commission, a memorandum setting

forth in detail the products analyzed in the course of and the methodology and results of, the Company's comparative survey.

11. Applicants acknowledge that the contingent deferred sales load may be insufficient to cover all costs relating to the distribution of the Contracts. Applicants also acknowledge that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be viewed as being offset by distribution expenses not reimbursed by the contingent deferred sales load. The Company concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account and the Contract owners. The basis for such conclusion is set forth in a memorandum which will be maintened by the Company at its administrative offices and will be available to the Commission.

12. Applicants also represent that the Variable Account will invest only in management investment companies which undertake, in the event that it should adopt any plan under Rule 12b–1 to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not interested persons of the company, formulate and approve any plan under Rule 12b–1 to finance distribution expenses.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–18608 Filed 8–8–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17651; 811–3844]

American Capital Over-The-Counter Securities, Inc.; Application

August 3, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregulation under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: American Capital Over-The-Counter Securities, Inc.

RELEVANT 1940 ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on June 19, 1990, and amended on July 26, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 28, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 2800 Post Oak Blvd., Houston, TX 77056.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272–3022, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant, an open-end investment company organized under the laws of Maryland, filed its initial registration statement on Form N–1 under the 1940 Act and under the Securities Act of 1933 on August 22, 1983, with respect to an indefinite number of shares, which registration statement was declared effective on September 30, 1983.

2. On December 8, 1989, Applicant's board of directors approved an Agreement and Plan of Reorganization (the "Plan") under which Applicant would transfer all of its assets to American Capital Venture Fund, Inc. ("Venture") in return for shares of Venture in an amount representing the aggregate net assets so transferred. Venture also agreed to assume all of Applicant's liabilities and obligations. In support of the Plan, the board determined that the reorganization was in the best interest of Applicant's and Venture's shareholders because of Venture's lower advisory fees and expense ratio, and that none of the shareholders' interests would be diluted as a result of the reorganization. The Plan was approved by a majority of Applicant's outstanding shares on March 29, 1990.

3. Pursuant to the Plan, Applicant transferred all of its assets to Venture (File No. 811–2424) on March 30, 1990. In exchange, Applicant received 2,759,779.636 shares of Venture, with a per share net asset value of $14.89, the aggregate net asset value of which equalled the aggregate net assets transferred. At the time of the reorganization, Applicant had 4,885,387.341 shares outstanding, representing an aggregate net asset value of $41,095,441.49 ($8.41 per share) as valued at the close of business of the New York Stock Exchange on the same date.

4. Expenses incurred by Applicant in connection with the reorganization, including auditing and legal fees, and printing and postage costs, totalled approximately $21,779.41 and were borne by Applicant's investment adviser, American Captial Asset Management, Inc. ("ACAM"). Reorganization expenses incurred by Venture, totalling approximately $17,217.55, were paid by ACAM as well. No brokerage commissions were paid in connection with the reorganization.

5. Applicant intends to file articles of dissolution with the state of Maryland within twelve months of the closing date. Applicant has no remaining shareholders, assets or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged, nor proposes to engage, in any business activities other than those necessary to wind up its affairs.

6. As of the date of filing the application, the applicant was current in all filings required to be made pursuant to the 1940 Act.

For the Commission, by the Division of Investment Management, under delegaed authority.

Jonathan G. Katz,

Secretary,

[FR Doc. 90–18714 Filed 8–8–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17642; 812–7488]

American Republic Insurance Co., et al.; Application

August 1, 1990.

AGENCY: Securities and Exchange Commission ("SEC")

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: American Republic Insurance Company ("American Republic"), American Republic Variable Annuity Account ("AR Separate

Account"), American Benefit Life Insurance Company ("American Benefit") and American Benefit Variable Annuity Account ("AB Separate Account") (collectively, "Applicants") (AR Separate Account and AB Separate Account, collectively, "Separate Accounts").

RELEVANT SECTION OF THE 1940 ACT: Order requested under Section 26(b) of the Act.

SUMMARY OF APPLICATION: Applicants seek an Order to permit the substitution of shares of the Asset Allocation Portfolio, the Global Income Portfolio and the Government Portfolio of the PaineWebber Series Trust ("Series Trust") for shares of the Growth and Income, Corporate Bond and High Yield Bond Portfolios, respectively, of the Series Trust, held by the Separate Accounts.

FILING DATE: The application was filed on March 9, 1990 and amended on June 14, 1990 and July 12, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on the application or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m., on August 27, 1990. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send a copy to the Secretary of the SEC, along with proof of service by affidavit or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. American Republic Insurance Company and American Republic Variable Annuity Account, c/o Jeanne A. Foster, Vice President and Counsel, American Republic Insurance Company, 601 Sixth Avenue, Des Moines, Iowa 50334. American Benefit Life Insurance Company and American Benefit Variable Annuity Account, c/o Beverly Stewart, 421 New Karner, Albany, New York 12205.

FOR FURTHER INFORMATION CONTACT: Cindy J. Rose, Financial Analyst at (202) 272-3027 or Heidi Stam, Assistant Chief at (202) 272-2060 (Office of Insurance Products, Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is the summary of the application; the complete application is available from either the SEC's Public Reference Branch in person or from the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicants' Representations

1. American Republic is a mutual life insurance company organized in Iowa in 1929. The AR Separate Account, established by American Republic to fund variable annuity contracts ("Contracts"), is registered as a unit investment trust under the Act (File No. 811-4921). American Benefit is a stock life insurance company organized in New York in 1987 and is a wholly-owned subsidiary of American Republic. The AB Separate Account, registered as a unit investment trust under the Act (File No. 811-5422), was established by American Benefit to fund variable annuity contracts, which are clones of the Contracts of American Republic, intended for sale in New York State. The Contracts of American Republic are registered under the Securities Act of 1933 (the "1933 Act") (File No. 33-10417); the Contracts of American Benefit are also registered under the 1933 Act (File No. 33-19254). The Separate Accounts are each divided into nine divisions ("Divisions"). Each Division of the Separate Accounts invests its assets in one of the nine designated portfolios of the Series Trust.

2. The Series Trust, a Massachusetts business trust, is registered as an open-end management investment company under the Act (File No. 811-4919). Mitchell Hutchins Asset Management Inc. ("Mitchell Hutchins") is the investment adviser for the Series Trust. Mitchell Hutchins is a wholly-owned subsidiary of PaineWebber Incorporated, which is a wholly-owned subsidiary of Paine Webber Group Inc., a publicly held financial services holding company. At present, the Series Trust consists of nine portfolios: The Money Market Portfolio, the Growth and Income Portfolio, the Growth Portfolio, the Global Growth Portfolio, the Global Income Portfolio, the Government Portfolio, the Corporate Bond Portfolio, the High Yield Bond Portfolio and the Asset Allocation Portfolio.

3. The Growth and Income Portfolio's investment objective is current income and capital growth. It invests primarily in equity securities issued by U.S. companies. The High Yield Bond Portfolio seeks to provide the highest level of current income available without undue risk. The Portfolio invests primarily in high yielding bonds. The Corporate Bond Portfolio's investment objective is high current income consistent with the preservation of capital and liquidity. It invests in investment grade bonds and other investment grade fixed income securities. The Asset Allocation Portfolio seeks to provide a high total return with low volatility. To achieve its objectives it allocates investments among equity securities, long- and medium-term debt securities and money market instruments. The Global Income Portfolio seeks high current income and secondarily seeks capital appreciation. It invests primarily in high quality debt securities of foreign and U.S. issuers. The Government Portfolio primarily seeks to provide high current income consistent with preservation of capital and secondarily seeks capital appreciation. It invests primarily in debt securities issued or guaranteed by the U.S. government, its agencies and instrumentalities.

4. Early in 1990, The Series Trust's Board of Trustees determined that the fund would no longer offer shares of the Growth and Income, Corporate Bond and High Yield Bond Portfolios ("Discontinued Portfolios") for sale. After conferring with Mitchell Hutchins, American Republic and American Benefit determined to discontinue offering the Discontinued Portfolios as investment options to their respective Contract owners. They have made this decision because each of the Discontinued Portfolios has such minimal assets that expenses are disproportionately high; also, the small size of these portfolios has made it difficult for the adviser to make appropriate investment decisions and comply with the diversification requirements applicable to variable annuity products under the Internal Revenue Code ("Code").

5. American Republic and American Benefit propose to substitute shares of three of the remaining six portfolios ("Remaining Portfolios") of the Series Trust for the Discontinued Portfolios shares presently held by the Separate Account. The transaction would be effected by a simple net asset value exchange so that the dollar amount invested in shares of the Discontinued Portfolios of the Series Trust would be invested in the shares of the Remaining Portfolios after the substitution. On the date of substitution, the per share values of each of the Portfolios will be determined in the normal course of business. The shares underlying Contract values in the Discontinued Portfolios thus determined will be redeemed by the insurance company and the net asset values applied to purchase shares of the selected Remaining Portfolios at net asset value. The substitution will be effected in compliance with section 22(c) of the Act and Rule 22c-1 thereunder. The

investment securities held by the Discontinued Portfolios will be disposed of. Any expenses incurred in disposing of the investment securities and effecting the substitution will be shared by the respective insurance company and Mitchell Hutchins. There will be no change in the amount of a Contract owner's cash value as a result of the substitution.

6. No vote of shareholders is required in connection with the proposed substitution and none has taken place.

7. In February 1990, Contract owners were notified that shares of the Discontinued Portfolios were no longer available as an option for purchase or transfer under the Contracts as of March 1, 1990 and that American Republic and American Benefit intended to effectuate the proposed substitution. Contract owners who have allocation instructions on file with American Republic or American Benefit that currently direct net premiums to any of the Discontinued Portfolios have been notified of the discontinuance of these Divisions as investment options and new allocation instructions have been requested. Upon receipt of Commission approval for the proposed substitution, Contract owners with Contract values in the Discontinued Portfolios will be provided a form with which they can elect to transfer their Contract values to one or more of the Remaining Portfolios. If no instructions are received within 30 days after the notice of request to elect, Contract values in the Growth and Income Portfolio, the Corporate Bond Portfolio and the High Yield Portfolio will be transferred to the Asset Allocation Portfolio, the Government Portfolio and the Global Income Portfolio, repectively.

8. The Contracts provide the Contract owner the right to transfer part or all of the Contract value from one allocation option to one or more of the remaining options. The Contracts also provide that each transfer in excess of six in a calendar year is subject to a charge of $10. This charge has been waived by both American Republic and American Benefit until further notice. The substitution of the shares of a Discontinued Portfolio for shares of one or more of the Remaining Portfolios will not be considered a "transfer" for the purpose of the above limitation.

9. Only 197, 212 and 92 Contracts have invested in the Growth and Income, Corporate Bond and High Yield Portfolios, respectively, since the Separate Accounts' registration statements were declared effective. During the two year period from December 31, 1987 to December 31, 1989, the number of accumulation units outstanding in the Growth and Income, Corporate Bond and High Yield Divisions of the AR Separate Account decreased from 463,059 to 178,305, 1,678,183 to 261,037 aand 317,753 to 112,699, respectively. This represents an overall decrease of 77.6% in the total accumulation units in these three Divisions during the period. In regard to the AB Separate Account, the registration for which became effective on May 1, 1988, as of December 31, 1989 there were only 2,693 accumulation units outstanding in the Growth and Income Division, 3,682 units outstanding in the Corporate Bond Division and no units outstanding in the High Yield Bond Division.

10. Early in 1990, the Series Trust's Board of Trustees determined that the fund would no longer offer shares of the Growth and Income, Corporate Bond and High Yield Bond Portfolios for sale. American Republic and American Benefit were notified of the Board's determination and thereupon discontinued offering investment in these Portfolios. Since the AR Separate Account and the AB Separate Account can no longer purchase shares of those three Portfolios, with nomral redemptions, these Portfolios are expected to shrink even more rapidly in the future.

11. The drastic decrease in the total accumulation units invested in the corresponding Portfolios has resulted in severely limiting the investment opportunities available to the affected Series Trust Portfolios. Moreover, to meet the continuing need to satisfy redemption requests, these three Portfolios have been required to steadily dispose of portfolio investment securities. The continuing pattern of selling off investment securities without an ability to add to the assets through the sale of shares not only severely limits the acquisition of new investment securities, it also creates problems in meeting the diversification requirements of the Code.

If even one of the Portfolios fails to meet the diversification tests of section 817(h) of the Code, any Contract which has any part of its Contract values invested in that Portfolio will be considered to have failed to meet the requirements of section 817(h) of the Code. That is, the entire Contract would be currently taxable, not just that portion of it which is invested in the non-complying Portfolio. This was considered by American Republic and American Benefit as a major factor in determining to substitute shares of other Portfolios thus reducing the number of Portfolios available for investment. It was determined that it was much more important to the interest and the benefit of Contract owners to preserve the tax status enjoyed by annuity Contract owners than to maintain the Portfolios which are no longer available for additional purchases. Applicants, in considering the reduction in the number of available Divisions, decided in approving the substitution, that under the particular circumstances herein, such a reduction was for the overall benefit of Contract owners.

12. No two Series Trust Portfolios have identical investment objectives, policies and restrictions. Management of American Republic and American Benefit, in consultation with Mitchell Hutchins, studied the investment objectives, policies and restrictions of each of the Remaining Portfolios to form an opinion as to which of the Remaining Portfolios most closely identified with investment intent of a Contract owner who had invested in each of the Discontinued Portfolios.

It was concluded that a Contract owner who had Contract values invested in the Growth and Income Portfolio was primarily interested in a portfolio with an objective of a stable return and which included income and growth of capital. The investment objectives and policies of the Asset Allocation Portfolio are to seek a high total return with low volatility. Thus, it was concluded that the Asset Allocation Portfolio most closely suits the investment intent of the Contract owner who has Contract values invested in the Growth and Income Portfolio.

It was concluded that a Contract owner who had Contract values invested in the Corporate Bond Portfolio was primarily interested in a portfolio with an objective of regular income flow from securities which were liquid and which would be likely to represent a minor investment risk of capital. The Government Portfolio presents minimum risk of capital, liquidity and current income. Thus, it was concluded that the Government Bond Portfolio most closely suited the investment intent of a Contract owner who has Contract values invested in the Corporate Bond Portfolio.

It was concluded that a Contract owner who had Contract values invested in the High Yield Bond Portfolio was primarily interested in a portfolio with an objective of a high level of current income and to achieve this goal was willing to assume reasonable risks. The objectives of the Global Income Portfolio are high current income with capital appreciation as a secondary objective. The Global Income Portfolio invests not only in debt

securities of U.S. issuers but also in those of foreign issuers. It was concluded that this Portfolio most closely suited the investment intent of a Contract owner who has Contract values invested in the High Yield Bond Portfolio.

13. Based upon the above study and the conclusions reached therein, a determination was made that the Asset Allocation Portfolio, the Government Portfolio and the Global Income Portfolio have investment objectives and policies most similar to the Growth and Income Portfolio, the Corporate Bond Portfolio and the High Yield Bond Portfolio, respectively. A Contract owner, however, is not limited to those Portfolios in determining where his or her Contract values should be invested. Such Contract owner may elect any one or more of the six Remaining Portfolios.

14. The lack of substantial assets in the Discontinued Portfolios results in high operating expenses that are borne by the Contract owners. With respect to the Growth and Income and High Yield Bond Portfolios, Mitchell Hutchins or its predecessor (PaineWebber Incorporated) has waived its advisory fees and reimbursed the Portfolios for a significant portion of their operating expenses since their inception. Applicants have been advised that with the exception of the Government Portfolio, Mitchell Hutchins no longer intends to reimburse portfolio expenses. The following table sets forth the 1989 actual expense ratios of each Portfolio and the expense ratios of each after reimbursement of expenses and/or waiver of fees by Mitchell Hutchins:

Portfolio	Actual expense (percent)	Net expense after reimbursement (percent)
Growth and income	3.80	1.72
Asset allocation	1.39	1.25
High yield bond	2.57	1.55
Global income	2.59	1.86
Corporate bond [1]	0.98	0.98
Government [2]	13.87	1.55
Money market	2.17	1.55
Growth	3.61	1.76
Global growth	4.35	2.10

[1] The 1989 actual expense ratio for the Corporate Bond Portfolio was based upon a much larger asset base than now exists. Thus, the expense ratio for this Portfolio has increased significantly with the decreased asset base.

[2] The registration for the Government Bond Portfolio became effective on May 1, 1989. During the "start-up" period for a new investment portfolio, expense ratios are normally higher because of the minimal assets during such period and the fixed expenses to which the investment portfolio is subject.

As noted in the above table, the Growth and Income Portfolio's 1989 actual expenses of 3.80% were higher than the Asset Allocation Portfolio whose actual expenses were 1.39%. Similarly, the 1989 actual expenses for the High Yield Bond Portfolio of 2.57% was approximately the same as the Global Income Portfolio whose actual expenses were 2.59%. The Corporate Bond Portfolio had actual and net expenses in 1989 of 0.98% while the Government Portfolio had actual expenses of 13.87% (annualized) and expenses after reimbursement of 1.55%. In comparing the expenses of the two Portfolios, however, Applicants believe that the decreasing asset base of the Corporate Bond Portfolio and the increasing asset base of the Government Portfolio is a relevant consideration. Because the Corporate Bond Portfolio's total net assets decreased from approximately $4.7 million to approximately $2.8 million over the past fiscal year, it is presently accruing expenses at a significantly higher rate.

15. American Republic and American Benefit have concluded that there is no reasonable likelihood that these Portfolios will grow to a size that will result in lower expense ratios without the need for waivers or reimbursements from the adviser. Lower expenses ratios generally indicate higher possible investment returns for Contract owners. Applicants, therefore, believe that the interests of Contract owners would be better served if the Contracts were funded exclusively by the Remaining Portfolios.

16. The Contracts reserve to American Republic and American Benefit, respectively, the right to replace the shares of the Series Trust held by the Separate Accounts with shares of another series or another registered investment company.

17. The Separate Accounts are the only separate accounts invested in the Series Trust. American Republic and American Benefit do not intend that any new or existing products will use the Discontinued Portfolios of the Series Trust for investment purposes, nor is there any intention to market the Discontinued Portfolios of the Series Trust to separate accounts of other insurance companies.

18. Any expense incurred in disposing of the investment securities and effecting the substitution will be shared by the respective insurance company and Mitchell Hutchins and will not be borne by the Contract owners and no charges will be assessed against the Contract owners to effect the substitution. There will be no change in the amount of a Contract owner's cash value as a result of the substitution. In addition, the substitution will in no way alter the annuity benefits to Contract owners or the contractual obligations of American Republic or American Benefit and will not affect the voting rights of Contract owners. The insurance companies have determined that no adverse tax consequences will be incurred by Contract owners as a result of the substitution. The substitution will use shares of portfolios that have similar, although not identical investment objectives, investment policies and investment restrictions to those of the portfolios to be eliminated. Applicants anticipate that in the future the total expenses of each of the Remaining Portfolios will not be greater than the expenses would have been for each of the three Portfolios had they not been discontinued.

19. Applicants submit that the proposed substitution should be approved pursuant to section 26(b) of the Act because the managements of American Republic and American Benefit have determined that investment in shares of the Discontinued Portfolios of the Series Trust is no longer appropriate in view of the purposes of the Contracts. Moreover, Applicants contend that the substitution of the shares of the Remaining Portfolios for the Discontinued Portfolios of the Series Trust shares held by the Separate Account is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

20. For the reasons set forth above, it is submitted that the request Order under section 26(b) of the Act is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-18605 Filed 8-8-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17650; 811-5671]

California Municipal Income Fund; Application for Deregistration

August 3, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: California Municipal Income Fund ("Applicant").

RELEVANT 1940 ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

FILING DATES: The application on Form N–8F was filed on September 28, 1989, and was amended on June 7, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 28, 1990, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 16450 Los Gatos Boulevard, Suite 115, Los Gatos, California 95032.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, (202) 504–2283, or Stephanie M. Monaco, Branch Chief, (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations:

1. Applicant represents that it is an open-end non-diversified management investment company incorporated under the laws of the State of California. On October 11, 1988, Applicant filed a Notification of Registration on Form N–8A under section 8(a) of the 1940 Act. On the same date, Applicant filed a registration statement on Form N–1A under the Securities Act of 1933, and the SEC declared that registration statement effective on February 24, 1989. Applicant commenced its initial public offering on February 27, 1989.

2. On August 31, 1989, Applicant's Board of Directors authorized and recommended that Applicant liquidate. On September 27, 1989, Applicant's shareholders of record authorized the liquidation.

3. Applicant's portfolio securities were sold at the best available prices considering: (a) The size of the transactions, (b) The prevailing market conditions for the security sold, and (c) The general economic and market conditions.

4. Applicant accounted for the initial organizational expenses in the following manner. Applicant's investment adviser, Municipal Capital Group, Inc. ("Municipal Capital"), had paid Applicant's initial organizational expenses. Of these expenses, $35,000 was charged to Applicant, which accounted for that amount as an asset to be amortized. The expenses in excess of $35,000 were borne by Municipal Capital. In addition, Applicant issued Municipal Capital 3,500 of its shares at a net asset value of $10.00 per share. Municipal Capital redeemed the initial 3,500 shares on April 27, 1989 at a net asset value of $34,941.53. Less the unamortized portion of the deferred organizational expenses of $34,941.53 resulting in Municipal Capital receiving $0.00 in net proceeds.

5. Prior to Applicant's liquidation, Applicant had 3,108.46 shares of common stock, no par value per share and a net asset value per share of $9.96 as of September 27, 1989. On September 27, 1989, cash distributions were made in the gross amount of $30,974.78 and $9.96 per share to Applicant's shareholders.

6. Municipal Capital paid Applicant's liquidation expenses. No brokerage commissions were paid in connection with the liquidation.

7. Applicant represents that it was current on all filings under the 1940 Act, including all N–SAR filings, as of the date it filed the application.

8. Applicant has no shareholders, assets or liabilities. Applicant is not a party to any litigation or administrative proceeding. Lastly, Applicant is not engaged, nor does it propose to engage in any business activities other than those necessary to wind up its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–18712 Filed 8–8–90; 8:45am]

BILLING CODE 8010–01–M

[Rel. No. IC–17648; 812–7544]

The European Warrant Fund, Inc.: Application

August 3, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: The European Warrant Fund, Inc. ("Applicant").

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to section 6(a) of the 1940 Act for exemptions from the provisions of section 12(d)(3) of such Act and Rule 12d3–1 thereunder.

SUMMARY OF APPLICATION: Applicant seeks an order exempting it from the prohibitions of section 12(d)(3) of the 1940 Act to the extent necessary to allow it to acquire securities of foreign issuers engaged in securities-related activities in accordance with the conditions of proposed amendments to Rule 12d3–1 under the 1940 Act.

FILING DATE: The application was filed on June 25, 1990, and was amended on August 3, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 28, 1990, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW, Washington, DC 20549. Applicants, c/o Julius Baer Securities Inc., 330 Madison Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, at (202) 504–2283, or Stephanie M. Monaco, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant is a diversified closed-end management investment company newly organized as a Maryland corporation and registered under the

1940 Act. Applicant's stock has been approved for trading on the New York Stock Exchange. Applicant requests that any order that the SEC issues concerning this application not only apply to Applicant but also to any other investment companies or portfolios that are or may in the future be included in the Julius Baer Securites Inc. complex, and that may make investments in equity securities, warrants or convertible debt securities in foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenues from activities as a broker, a dealer, an underwriter or an investment adviser ("Foreign Securities Companies"), provided they meet the conditions and representations set forth in the application.

2. Applicant's investment objective is enhanced capital growth, which Applicant seeks to achieve by investing primarily in warrants of Western European issuers. It is Applicant's policy, under normal market conditions, to invest substantially all of its assets, but in no event less than 65% of its assets, in European warrants. "European warrants" include equity warrants and index warrants, covered warrents and long term options of, or relating to, European issuers and other securities with similar features. Applicant has no current intention of focusing its investments in any particular country or countries, and under current market conditions, Applicant intends to invest primarily in warrants of Western European issuers.

3. Section 12(d)(3) of the 1940 Act and Rule 12d3–1 thereunder prohibit a registered investment company from purchasing a security issued by a broker, dealer, underwriter or investment adviser unless, among other things, the security of such an issuer is a "margin security," as that term is defined in Regulation T of the Board of Governors of the Federal Reserve System (the "Federal Reserve"). Until very recently, few equity securities issued outside the United States qualified as "margin securities." However, under recent amendments to Regulation T, certain equity securities issued outside the United States can now qualify as margin securities. However, since many equity securities of Foreign Securities Companies do not meet the Federal Reserve Board's definition of a "margin security," any acquisition of non-qualifying equity securities under Rule 12d3–1, absent an exemptive order, would be prohibited by section 12(d)(3).

4. Applicant seeks relief from section 12(d)(3) and Rule 12d3–1 under the 1940 Act to the extent permitted by proposed amendments to Rule 12d3–1 (the "Proposed Amendments"). *See* Investment Company Act Release No. 17096 (August 3, 1989). The Proposed Amendments to Rule 12d3–1 would, among other things, facilities the acquisition by registered investment companies of equity securities issued by Foreign Securities Companies.

Applicant's Legal Conclusions

1. Section 12(d)(3) of the 1940 Act prohibits an investment company from acquiring any securities issued by any person who is a broker, a dealer, an underwriting, or an investment banker. Rule 12d3–1 under the 1940 Act provides an exemption from section 12(d)(3) for investment companies acquiring securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities-related activities.

2. Applicant represents that its proposed acquisition of securities issued by Foreign Securities Companies will comply with the provision of current Rule 12d3–1, except subparagraph (b)(4) thereof. Subparagraph (b)(4) of Rule 12d3–1 provides that, "any equity security of the issuer * * * [must be] a 'margin security' as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System." Since a "margin security" generally must be one that is traded in the United States markets, securities issued by many foreign securities firms would not meet this test. Accordingly, Applicant seeks an exemption only from the "margin security" requirements of Rule 12d3–1.

3. Proposed amended Rule 12d3–1 provides that the "margin security" requirement would be excused if the acquiring company purchases the equity securities of Foreign Securities Companies that meet criteria comparable to those applicable to equity securities of United States securities-related businesses. The criteria, as set forth in the Proposed Amendments, "are based particularly on the policies that underlie the requirements for inclusion on the list of over-the-counter margin stocks." Investment Company Act Release No. 17096 (August 3, 1989).

4. Applicant submits that the relief sought would further the purposes of Rule 12d3–1 by allowing it to make investments in the best interest of its shareholder, including acquisitions of equity and equity-related securities issued by foreign entities that may be engaged in securities related activities. In addition, covered warrants in which Applicant will invest are typically issued by banks or other financial institutions. In the absence of the requested relief, Applicant's ability to invest in covered warrants would be extremely limited and Applicant's ability to achieve its investment objective through these warrants may be impaired as a result.

Applicant's Conditions

Applicant will comply with the proposed amendments to Rule 12d3–1 under the 1940 Act as they are currently proposed, and as they may be reproposed, adopted or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–18713 Filed 8–8–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC—17645; 812–7265]

Federated Securities Corp., et al.; Notice of Application

August 2, 1990.

AGENCY: Securites and Exchange Commission ("SEC").

ACTION: Notice of Application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: Federated Securities Corp. (the "Distributor"), Federated Investors, Independence One Mutual Funds (the "Trust"), and other investment companies for which subsidiaries or affilitates of Federated Investors act or will act as principal underwriter, investment adviser or administrator (together with the Trust, the "Funds").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of sections 18(f), 18(g), and 18(i).

SUMMARY OF APPLICATION: Applicants seek an order that would permit each Fund to issue and sell separate classes of shares representing interests in the same investment portfolio, which classes would be identical in all respects except for class designation, voting rights, exchange privileges, and the allocation of certain expenses.

FILING DATES: The aplication was filed on March 7, 1989 and amended on February 26, 1990, June 8, 1990, and July 20, 1990. Applicants have stated that they intend to file an additional amendment during the notice period, the substance of which is incorporated in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing.

Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 29, 1990, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, Federated Investors, Federated Investors Tower, Pittsburgh, PA 15222-3779, Attention: Joesph M. Huber.

FOR FURTHER INFORMATION CONTACT: Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. The Trust is a Massachusetts business trust and a registered open-end management investment company. A registration statement on Form N-1A seeking to register the securities of the Trust under the Securities Act of 1933 was filed on January 13, 1989, and became effective on June 1, 1989. The Trust presently has series of common stock representing interests in three different investment portfolios: Independence One Prime Money Market Fund (the "Prime Fund"); Independence One Tax-Free Money Market Fund (the "Tax-Free Fund"); and Independence One U.S. Treasury Money Market Fund.

2. The Distributor is a wholly-owned subsidiary of Federated Investors and is principal underwriter of the shares of the Trust. Federated Administrative Services, Inc. is the administrator of the Trust, and Michigan National Bank is investment adviser to the Trust.

3. The Trust proposes to file an amendment to its registration statement to permit shares of the Prime Fund and Tax-Free Fund to be divided into two separate classes. Class A shares will be offered for purchase only by or through banks and other organizations which have agreed pursuant to an administrative agreement with the Distributor to perform certain services for their customers who are shareholders of such class, or purchased by or through banks of broker/dealers who have entered into sales agreements with the Distributor with respect to the distribution of such shares. Class B shares are to be offered for purchase only by the Trust Division of Michigan National Bank for amounts which are held in a fiduciary, agency, custodial or similar capacity. Class B shares will not be offered to or through non-institutional investors.

4. The Trust has adopted plans pursuant to Rule 12b-1 of the 1940 Act ("12b-1 Plans") with respect to the Class A shares of its Tax-Free Fund and Prime Fund Series. Pursuant to such 12b-1 Plans, the Trust will pay fees to broker/dealers, banks, and service organizations that have entered into agreements related to such 12b-1 Plans ("Service Agreements"). The Class B shares will not bear expenses under a 12b-1 Plan.

5. Classes of shares relating to future series of the Trust, to other Funds, or series thereof, would likewise differ in that they may incur expenses as a result of certain classes of shares being offered in conjunction with 12b-1 Plans while other classes may be offered in conjunction with non-Rule 12b-1 shareholder services plans ("Shareholder Service Plans") with payment made by the Fund; with administrative plans with payments made by the adviser (Administrative Plans"), or with no 12b-1 Plan, Shareholder Service Plan, or Administrative Plan at all.

6. Under each 12b-1 Plan, the Distributor will enter into Service Agreements with broker-dealers and other organizations and institutions concerning the provision of support services to the customers thereof who beneficially own shares offered in connection with such 12b-1 Plan. In addition, Service Agreements under a 12b-1 Plan will contemplate the provision of distribution assistance by broker/dealers in connection with the distribution of shares that are offered in connection with the 12b-1 Plan.

7. Service payments made under the 12b-1 Plan currently adopted by the Trust shall not exceed .25% (annualized) of the average daily net assets of those shares beneficially owned by the customers of the broker-dealer or other organization or institution providing services under a Service Agreement. This level of payments may be changed if approved by the shareholders of the affected class of the applicable series of the Trust. In the case of other Funds, the level of payments made pursuant to a 12b-1 Plan or Shareholder Services Plan will be determined by the board of trustees of such Fund, subject to the approval of the shareholders of the affected class.

8. The provision of support services and distribution assistance under the 12b-1 Plans will augment (and not be duplicative of) the services that would otherwise have been provided to the Fund by the Distributor, Federated Administrative Services, Inc., and the Trust's transfer agent and custodian.

9. In addition to expenses incurred under a Rule 12b-1 Plan or Shareholder Services Plan, each class of shares will bear certain expenses specifically attributable to the particular class listed in condition 1 ("Class Expenses"). The determination of which Class Expenses will be allocated to a particular class and any subsequent changes thereto will be determined by the board of trustees of the Fund in the manner described in condition 3.

10. Each class of shares may be exchanged only for shares of the same class of another series or Fund. Thus, for example, Class A shares of the Prime Fund may only be exchanged for Class A shares of the Tax-Free Fund.

11. Each class of shares of a Fund will represent an equal pro rata interest in such Fund and will have identical voting, dividend, liquidation and other rights, preferences, powers, restrictions, limitations, qualifications, designations and terms and conditions, except that: (1) Each class will have a different class designation; (2) each class offered in connection with a 12b-1 Plan or Shareholder Services Plan will bear the expenses incurred under such plan; (3) each class will bear Class Expenses directly attributable to such class; (4) the holders of the shares of the class involved will be entitled to exclusive voting rights on matters affecting only that class (for example, to the adoption, amendment, or termination of the 12b-1 Plan with respect to that class); and (5) each class will have different exchange privileges.

12. The net asset value of all oustanding shares representing interests in a Fund will be computed on the same days and at the same times by adding the value of all portfolio securities and other assets belonging to the Funds, subtracting the liabilities charged to the series, and dividing the result by the number of such outstanding shares. The gross income of the series will be allocated pro rata based on the net assets of each class and then divided by the number of outstanding shares in the class. Class Expenses and expenses incurred under Rule 12b-1 Plans and

Shareholder Services Plans will be allocated to the class incurring such expenses. All other expenses incurred by a series will be borne pro rata by each class based on the relative net asset value of each class.

13. Because of the expenses incurred under a Rule 12b–1 Plan or Shareholder Services Plan and any Class Expenses that would be borne by a class of shares, the net income of and dividends payable to any one class may be different from the net income of the "matched" class of shares. Dividends paid to each class of shares in a Fund will, however, be declared and paid on the same days and at the same times, and, except as noted above, would be determined in the same manner and paid in the same amounts.

14. The representations in the application and the conditions imposed by any order will apply to any other Fund or series of the Trust relying on the order.

Applicants' Legal Analysis

1. Applicants request an order under Section 6(c) of the Act to the extent that the proposed issuance and sale of shares representing interests in a Fund might: (1) result in a "senior security" within the meaning of section 18(g) and to be prohibited by section 18(f)(1); or (2) violate the equal voting provisions of section 18(i) of the Act.

2. Applicants assert that the proposed allocation of expenses and voting rights is equitable and would not discriminate against any group of shareholders. Investors purchasing shares offering in connection with a 12b–1 Plan would bear the costs associated with services rendered pursuant to the 12b–1 Plan and would posses exclusive shareholder voting rights with respect to matters affecting such 12b–1 Plan, while investors purchasing shares that are not covered by such 12b–1 Plan would not bear such expenses or possess such voting rights. The same is true for Funds which adopt a Shareholder Services Plan. With the exception of obtaining voting rights, the protections offered by Rule 12b–1 would be accorded to shareholders of a class adopting a Shareholder Service Plan.

3. Applicants submit that the requested exemptions are appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the proposed arrangement does not involve borrowing and will not increase the speculative character of the shares in a Fund since all shares will participate pro rata in all of the Funds' income and expenses (with the exception of expenses assessed to a class pursuant to a 12b–1 Plan or Shareholder Service Plan and Class Expenses).

Applicants' conditions

If the requested order is granted, Applicants' agree to the following conditions:

1. The classes will represent interests in the same portfolio of investments of a Fund, and be identical in all respects, except for differences related to:

(a) The method of financing certain Class Expenses, which are limited to:

(i) Transfer agent fees identified by the transfer agent as being attributable to a specific class;

(ii) Printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses and proxies to current shareholders;

(iii) Blue sky registration fees incurred by a class of shares;

(iv) SEC registration fees incurred by a class of shares;

(v) The expense of administrative personnel and services as required to support the shareholders of a specific class;

(vi) Litigation or other legal expenses relating solely to one class of shares; and

(vii) Director's fees incurred as a result of issues relating to one class of shares;

(b) Expenses assessed to a class pursuant to a 12b–1 Plan or Shareholder Services Plan;

(c) Voting rights as to matters exclusively affecting one class of shares;

(d) Exchange privileges; and

(e) Class designation differences. Any additional incremental expenses not specifically identified above which are subsequently identified and determined to be properly allocated to one class of shares shall not be so allocated until approved by the SEC pursuant to an amended order.

2. The Trustees of a Fund, including a majority of the independent Trustees, will approve the offering of different class of shares of a Fund (the "Dual Distribution System") prior to the implementation of the Dual Distribution System. The minutes of the meeting of the Trustees of a Fund regarding the deliberations of the Trustees with respect to the approvals necessary to implement the Dual Distribution System will reflect in detail the reasons for the Trustees determination that the proposed Dual Distribution System is in the best interests of both the Fund and its shareholders and such minutes will be available for inspection by the SEC staff and will be preserved for a period of not less than six years, the first two years in an easily accessible place.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the Board of Trustees of a Fund including a majority of the Trustees who are not interested persons of such Fund. Any person authorized to direct the allocation and disposition of monies paid or payable by a Fund to meet Class Expenses shall provide to the Board of Trustees, and the Trustees shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the Trustees of a Fund, pursuant to their fiduciary responsibilities under the 1940 Act and otherwise, will monitor the Fund for the existence of any material conflicts between the interests of the two classes of shares. The Trustees, including a majority of the independent Trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The investment adviser and the Distributor will be responsible for reporting any potential or existing conflicts to the Trustees. If a conflict arises, the investment adviser and the Distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

5. The Distributor of a Fund will adopt compliance standards as to when each class of shares may be sold to particular investors.

6. Each Rule 12b–1 Plan relating to the sale of any class of shares of a Fund will be approved and reviewed by the Fund's Trustees in accordance with the requirements and procedures set forth in Rule 12b–1, both currently and as that Rule may be amended in the future. Any Rule 12b–1 plan adopted by the Trustees to permit the assessment of a Rule 12b–1 fee on any class of shares which has not had its 12b–1 plan approved by the public shareholders of that class will be submitted to the public shareholders of such class for approval at the next meeting of shareholders after the initial issuance of the class of shares. Such meeting is to be held within one year from the date that shares of such class are initially issued.

7. If any class will be subject to a Shareholder Services Plan, such Shareholder Services Plan will be adopted and operated in accordance with the procedures set forth in Rule 12b–1 (b) through (f) as if the expenditures made thereunder were

subject to Rule 12b–1, except that shareholders will not enjoy the voting rights specified in Rule 12b–1. In evaluating the Shareholder Services Plan, the Trustees will specifically consider whether: (a) the Shareholder Services Plan is in the best interest of the applicable classes and their respective shareholders; (b) the services to be performed pursuant to the Shareholder Services Plan are required for the operation of the applicable classes; (c) the service organizations can provide services at least equal, in nature and quality, to those provided by others, including the Fund, providing similar services; and (d) the fees for such services are fair and reasonable in light of the usual and customary charges made by other entities, especially nonaffiliated entities, for services of the same nature and quality.

8. If any class will be subject to a Shareholder Services Plan, each shareholder services agreement entered into pursuant to the Shareholder Services Plan will contain a representation by the service provider that any compensation payable to the service provider in connection with the investment of its customer's assets in the Fund: (a) Will be disclosed by it to its customers; (b) will be authorized by its customers; and (c) will not result in an excessive fee to the service provider.

9. If any class will be subject to a Shareholder Services Plan, each shareholder services agreement entered into pursuant to the Shareholder Services Plan will provide that, in the event an issue pertaining to the Shareholder Services Plan is submitted for shareholder approval, the service provider will vote any shares held for its own account in the same proportion as the vote of those shares held for its customers' accounts.

10. The Trustees of the Fund will receive quarterly and annual statements concerning Rule 12b–1 Plan and Shareholder Services Plan expenditures complying with paragraph (b)(3)(ii) of Rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to a particular class of shares will be used to justify any fee charged to that class. Expenditures not related to a particular class will not be presented to the Trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent Trustees in the exercise of their fiduciary duties.

11. Dividends paid by a Fund with respect to a class of shares in a series will be calculated in the same manner, at the same time, on the same day, and will be in the same amount as dividends paid by a Fund with respect to each other class of shares in the same series, except that Class Expenses and payments made pursuant to a 12b–1 Plan or Shareholder Services Plan will be allocated exclusively to that class.

12. The methodology and procedures for calculating the net asset value and divided distribution of the various classes and the allocation of expenses among the classes has been reviewed by an expert (the "Expert") who has rendered a report to the Applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner (attached as Exhibit A to the application). On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to section 30(a) and 30(b)(1) of the 1940 Act. The work papers of the Expert with respect to such reports, following request by the Fund (which the Fund agrees to provide), will be available for inspection by the SEC staff upon the written request to the Fund for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and on-going reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in Statement of Auditing Standards No. 44 of the American Institute of Certified Public Accountants ("AICPA"), as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

13. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividend/distributions of the various classes of shares and the proper allocation of expenses among the classes of shares and this representations has been concurred with by the Expert in the initial report referred to in Condition 12 above and will be concurred with by the Expert or an appropriate substitute Expert on an on-going basis at least annually in the on-going reports referred to in that condition. Applicants agree to take immediate corrective action if the Expert, or appropriate substitute Expert, does not so concur in the on-going reports.

14. The prospectus of each class of a Fund will contain a statement to the effect that any person entitled to receive compensation for selling Fund shares may receive different compensation with respect to one particular class of shares over another in the Fund.

15. The conditions pursuant to which an exemptive order requested by the application may be granted and the duties and responsibilities of the Trustees of a Fund with respect to the multi-class distribution system described in the application will be set forth in guidelines which will be furnished to the Trustees of the Fund.

16. Each Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. Each fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares. The information provided by applicants for publication in any newspaper or similar listing of a Fund's net asset value and public offering price will present each class of shares separately.

17. Applicants acknowledge that the grant of the exemptive order requested by the application will not imply Commission approval, authorization or acquiescence in any particular level of payments that a Fund may make pursuant to 12b–1 Plans or Shareholder Services Plans in reliance on the exemptive order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–18716 Filed 8–8–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC-17649; 811-3478]

First Investors Value Fund; Application for Deregistration

August 3, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: First Investors Value Fund, Inc. (the "Applicant")

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on June 18, 1990 and amended on July 18, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 29, 1990 and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Steet, NW., Washington, DC 20549. Applicant, 120 Wall Street, New York, New York 10005.

FOR FURTHER INFORMATION CONTACT: Kimberly Warren, Staff Attorney, at (202) 272-3026, or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland 301) 258-4300).

Applicant's Representations

1. Applicant is a Maryland corporation and an open-end diversified management investment company registered under the Act. On June 4, 1982, Applicant filed a notification of registration on Form N-8A and a registration statement on Form N-1 pursuant to sections 8(a) and (b) of the Act. On the same date, Applicant filed a registration statement on Form N-1 under the Securities Act of 1933. The registration statement became effective on April 21, 1983. The registration statement became effective on April 21, 1983. The Applicant's initial public offering took place shortly thereafter.

2. On March 23, 1989, the Boards of Directors of Applicant and First Investors Global Fund, Inc. (the "Global Fund"), having determined that a reorganization could provide shareholders of both funds better long-term investment performance and less risk exposure over a broader range of market conditions, unanimously adopted resolutions approving the reorganization of the two funds and the submission of the Agreement and Plan of Reorganization (the "Agreement") for approval by Applicant's shareholders. Under the Agreement, the Applicant would transfer all of its assets to Global Fund in exchange for shares of common stock of Global Fund having an aggregate net asset value equal to the net value of the transferred assets. Applicant filed proxy material with the Commission (File No. 33-29337) on June 16, 1989 and distributed the proxy material to its shareholders of record with reference to a special meeting of shareholders to be held on August 30, 1989 to consider the Agreement. A majority of the Applicant's shareholders approved the Agreement on October 26, 1989.

3. As of November 2, 1989, Applicant had 505,404.827 shares of common stock, $1.00 par value, outstanding. As of the same date, Applicant had an aggregate net asset value of $5,390,529.66 or $10.67 per share. Portfolio securities, were valued, as of the close of business of the New York Stock Exchange on November 2, 1989, in the manner set forth in the Agreement.

4. On November 3, 1989, Applicant transferred all of its assets, consisting of cash and portfolio securities, to Gobal Fund in a tax-free exchange for shares of Global Fund having the same aggregate net asset value as the transferred assets. The shares were distributed on a pro rata basis to Applicant's shareholders.

5. The expenses incurred in connection with the reorganization included fees and disbursements of attorneys and accountants. The Applicant and Global Fund assumed these expenses based on each funds relative net asset value unless specifically allocated to either fund. In addition, Applicant assumed all expenses incurred in connection with the solicitation of proxies by Applicant's management and the payment of any state stock transfer stamps and taxes incurred in connection with the reorganization.

6. As of the time of filing the application, Applicant had no securityholders, assets, debts or other liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those related to its dissolution. Finally, Applicant intends to file a Certificate of Dissolution with the appropriate authority in the State of Maryland upon receipt of an Order from the Commission pursuant to section 8(f) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-18715 Filed 8-8-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17630; File No. 812-7553]

First Variable Life Insurance Co., et al.

July 31, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: First Variable Life Insurance Company (the "Company"), First Variable Life Insurance Company Fund E ("Fund E") and Monarch Financial Services, Inc.

RELEVANT 1940 ACT SECTIONS: Exemption requested under Section 6(c) from Sections 26(a)(2) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the deduction of a daily mortality and expense risk charge from the assets of Fund E under certain variable annuity contracts.

FILING DATE: The Application was filed on July 5, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC no later than 5:30 p.m. on August 27, 1990. Request a hearing in writing giving the nature of your interest, the reasons for the request, and the issues contested. Serve Applicants with the request, either

personally or by mail, and also send it to the Secretary, SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary, SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o John S. Coulton, Monarch Financial Services, Inc., 361 Whitney Avenue, Holyoke, Massachusetts 01040.

FOR FURTHER INFORMATION CONTACT: Wendy B. Finck, Staff Attorney at (202) 272–3045, or Heidi Stam, Assistant Chief, at (202) 272–2060, Office of Insurance Products and Legal Compliance (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. The Company is a stock life insurance company organized under the laws of Arkansas in 1968. The Company authorized the creation of Fund E on December 4, 1979, to fund flexible purchase payment annuity contracts and single purchase payment immediate annuity contracts (collectively, the "Contracts"). Monarch Financial Services, Inc. is a broker-dealer registered under the Securities Exchange Act of 1934 that will be the principal underwriter of the Contracts. The Contracts will be issued in connection with various types of retirement plans or individual retirement arrangements, including those qualifying for tax treatment pursuant to the provisions of sections 401, 403, 408 or 457 of the Internal Code of 1986, as amended (the "Code"), and those which do not so qualify.

2. Fund E will be divided into 12 subaccounts, each of which will invest in a separate investment portfolio of Variable Investors Series Trust ("VIST"). VIST is a no-load, open-end, diversified, series management investment company registered under the 1940 Act.

3. The initial purchase payment for any Contract providing for the payment of a deferred benefit will be at least $1,000. The minimum purchase payment for a Contract providing for the payment of an immediate benefit will be $10,000. For qualified Contracts issued pursuant to Section 408 of the Code, the initial purchase payment will not be less than the additional deductible amount allowed by law for non-working spouses, currently $250. Subsequent purchase payments in either case must be at least $100.

4. An annual Contract maintenance charge ("Annual Contract Maintenance Charge") of $30 will be assessed each Contract during each Contract year during the accumulation period. The Annual Contract Maintenance Charge is for administrative services, which do not include expenses of distributing the Contracts. The Company estimates that this charge will represent a portion of the actual cost of providing administrative services.

5. The Company will also charge an administrative charge (the "Administrative Charge"), which is assessed daily against Fund E at an annual rate of 0.15%. The Administrative Charge is to reimburse the Company for costs incurred in administering Fund E and its Contracts. The Company estimates that this charge will represent a portion of the actual cost of providing administrative services, and will not include expenses of distributing the Contracts.

6. Both the Annual Contract Maintenance Charge and the Administrative Charge are guaranteed and may not be increased by the Company. The Applicants will rely on Rule 26a–1 under the 1940 Act for the necessary exemptive relief to charge both the Annual Contract Maintenance Charge and the Administrative Charge.

7. No deduction for distribution or sales expense charges will be imposed upon purchase payments when received by the Company. Rather, the Company seeks to recoup some or all of such distribution expenses from a contingent deferred sales charge ("Withdrawal Charge"). In Fund E, in the event that a withdrawal exceeds the withdrawal privilege amount, a Withdrawal Charge will be imposed in accordance with the following schedule:

Contract anniversary since purchase payments made	Applicable withdrawal charge percentage
0	5
1	4
2	3
3	2
4	1
5+	0

The withdrawal privilege amount is equal to the sum of 10% of new purchase payments not previously withdrawn, plus 100% of the excess of the value of a Contract over new purchase payments not previously withdrawn. New purchase payments are purchase payments made in the current and four previous Contract years.

8. In addition to the Administrative Charge and the Annual Contract Maintenance Charge, a risk charge ("Risk Charge") will be assessed daily against Fund E at an annual rate of 1.25% (approximately 0.85% for mortality risks and approximately 0.40% for expense risks). The Risk Charge is guaranteed and may not be increased by the Company. Applicants state that the mortality component of the Risk Charge is intended to compensate the Company for assuming the risk that its actuarial estimate of mortality rates may prove erroneous (i.e., the risk that a beneficiary may receive annuity benefits for a period longer than those reflected in the Contract's guaranteed annuity rates or may die at a time when the death benefit guaranteed by the Contract is higher than the accumulation value of the participant's Contract). The expense component of the Risk Charge is intended to compensate the Company for assuming the risk that administrative charges, which are guaranteed not to increase, may prove insufficient to cover expenses actually incurred.

9. Applicants represent that the level of the Risk Charge is reasonable in relation to the risks assumed by Applicants under the Contracts and within the range of industry practice for comparable annuity contracts. This representation is based upon the Company's analysis of publicly available information about such contracts, taking into consideration the particular annuity features of comparable contracts, including such factors as current charge levels, charge level guarantees or annuity rate guarantees, the manner in which the charges are imposed, and the markets in which the contracts are offered. Applicants state that the Company has incorporated the identity of the products analyzed and its analysis, including its methodology and results, into a memorandum which it will maintain and make available to the Commission or its staff upon request.

10. Applicants represent that the Withdrawal Charge assessed in connection with certain partial or total withdrawals may be insufficient to cover all costs of distributing the Contracts. Applicants state that if the actual amounts derived from the Withdrawal Charge prove insufficient to cover the actual costs of distributing the Contracts, the deficiency will be met from the Company's general corporate funds, including amounts, if any, derived

from the Risk Charge not otherwise applied to the expenses the Risk Charge was designed to defray. Applicants represent that the Company has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit Fund E and the owners of the Contracts, and state that the basis for this conclusion has been incorporated in a memorandum which the Company will maintain and make available to the Commission or its staff upon request.

11. Applicants represent that the assets of Fund E will be invested only in management investment companies which undertake, in the event they should adopt a plan for financing distribution expenses pursuant to Rule 12b-1 under the 1940 Act, to have such plan formulated and approved by its board of directors, the majority of whom are not "interested persons" of the management investment company within the meaning of section 2(a)(19) of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-18606 Filed 8-8-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-17641; File No. 812-7551]

Guardian Insurance and Annuity Company, Inc., et al.

August 1, 1990.

AGENCY: Securities and Exchange Commission ("SEC")

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: The Guardian Insurance & Annuity Company, Inc. ("GIAC") and the Guardian Separate Account B ("Account").

RELEVANT 1940 ACT SECTION: Order requested pursuant to Section 26(b).

SUMMARY OF APPLICATION: Applicants seek an order approving the substitution of securities issued by a management investment company and held by the Account to fund variable life insurance contracts (the "Contracts") issued by Applicants.

FILING DATE: The application was filed on July 3, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered the application will be granted. Any interested person may request a hearing on the application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on August 27, 1990. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send a copy to the Secretary of the SEC, along with proof of service by affidavit or, in case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, The Guardian Insurance & Annuity Company, Inc., 201 Park Ave. South, New York, NY 10003, Attn: Thomas R. Hickey, Jr., Esq.

FOR FURTHER INFORMATION CONTACT: Thomas Bisset, Attorney, at (202) 272-2058 or Heidi Stam, Assistant Chief, Office of Insurance Products & Legal Compliance, at (202) 272-2060 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 [in Maryland, (301) 253-4300].

Applicants' Representations

1. GIAC is a stock life insurance company incorporated under the laws of the state of Delaware in 1970. For purposes of the 1940 Act, GIAC is the depositor and sponsor of the Account as those terms have been interpreted by the Commission with respect to life insurance company separate accounts.

2. The Account was established by a GIAC as a separate investment account in November 1984 to fund the Contracts, which are single premium variable life insurance contracts. The Account is organized and registered under the Act as a unit investment trust. The Account currently has nine investment divisions. Six of the Account's investment divisions invest their assets in shares of designated open-end management investment companies and three of the Account's investment divisions invest their assets in units of designated unit investment trusts.

3. Contract owners may allocate account values in up to four of the nine investment divisions of the Account, or among a maximum of three of the nine investment divisions and The Guardian Real Estate Account (the "Real Estate Account"), another GIAC separate account which invests in real estate-related investments. Contract owners may transfer account values among the Account's investment divisions or the Real Estate Account, but may not invest in more than four of these options at once. GIAC reserves the right to limit the frequency of transfers among the Account's investment divisions, or the the Real Estate Account, to not more than once every 30 days. There is no fee for making transfers among investment options.

4. Six open-end management investment companies and three unit investment trusts offer their shares or units to corresponding investment divisions of the Account. The open-end management investment companies are: The Guardian Stock Fund, Inc., The Guardian Bond Fund, Inc., The Guardian Cash Fund, Inc., Value Line Strategic Asset Management Trust, Value Line Centurion Fund, Inc., and Value Line U.S. Government Securities Trust. The unit investment trusts are part of the Shearson Lehman Brothers Fund of Stripped ("Zero") U.S. Securities, Series A, and are designated as the 1991 Trust, the 1995 Trust and the 2004 Trust. This application relates to a substitution involving only shares of Value Line U.S. Government Securities Trust (the "Government Trust") and The Guardian Cash Fund (the "Cash Fund").

5. The Government Trust was organized as a Massachusetts business trust on May 14, 1987. Its primary investment objective is to obtain maximum income without undue risk of principal. Capital preservation and possible capital appreciation are secondary objectives. The Government Trust's shares are only made available to the public in connection with the purchase and ownership of Contracts. Value Line, Inc. ("Value Line") serves as the Government Trust's investment adviser and is paid an advisory fee equal to an annual rate of .50% of the Government Trust's average daily net assets.

6. The Cash Fund was incorporated in Maryland on October 1, 1981. Its investment objective is to seek as high a level of income as is consistent with the preservation of capital and liquidity. The Cash Fund presently offers its shares to the Account and to three other separate accounts established by GIAC to support variable annuity and variable life insurance contracts which GIAC issues. Guardian Investor Services Corporation ("GISC"), an affiliate of GIAC, serves as investment adviser to the Cash Fund and is paid on an advisory fee equal to an annual rate of .50% of the Cash Fund's average daily net assets.

7. Although the Government Trust had been available as an investment option under the Contracts for over 2½ years, Contractowner allocations to it only

totalled $4,130,498 as of May 31, 1990, representing just 2% of the total assets invested in the Account by Contractowners. Only 166 of the 7,161 Contractowners as of May 31, 1990 had allocated part or all of their account value to the Government Trust. It is unlikely that significant amounts of new premium will be allocated for investment in the Government Trust because sales of the Contracts have been adversely affected by the enactment of The Technical and Miscellaneous Revenue Act of 1988. Thus, Applicants do not anticipate that asset size will increase.

8. The Government Trust has had a ratio of annual expenses to average annual net assets that, net of all subsidies, has equalled or exceeded 2% since the Government Trust's organization on May 14, 1987. Because Applicants do not anticipate that asset size will increase, it is unlikely that the ratio of the Government Trust's expenses to its average daily net assets will diminish. While Value Line reimbursed and voluntarily assumed certain of the Government Trust's expenses during 1987 and 1988, Contractowners who then had account values allocated to the Government Trust's investment division still bore expenses equalling 2.1% of the Government Trust's average daily net assets. Contractowners who presently have account values allocated to the Government Trust's investment division currently bear all of the Government Trust's expenses. In contrast, the Cash Fund had assets of $277,097,712 as of May 31, 1990. Its ratios of expenses to average daily net assets were .61%, .58% and .56% for the years ended December 31, 1987, 1988, and 1989, respectively and .55% (annualized) for the five months ended May 31, 1990.

9. Applicants propose to substitute shares of the Cash Fund for shares of the Government Trust by transferring the account values of affected Contractowners from the Government Trust's investment division to the investment division of the Account which holds shares of the Cash Fund. Applicants propose to do this by redeeming shares of the Government Trust and purchasing with the proceeds shares of the Cash Fund. The investment division investing in shares of the Government Trust would then be eliminated.

10. The substitution will take place at relative net asset value with no change in the amount of any Contractowner's death benefit, account value, or in the dollar value of his or her investment in the Account. Contractowners will not incur any fees or charges as a result of the substitution, nor will their rights or GIAC's obligations under the Contracts be altered in any way. All expenses incurred in connection with the proposed substitution, including legal, accounting and other fees and expenses, will be paid by GIAC and Value Line. In addition, the proposed substitution will not impose any tax liability on Contractowners. The proposed substitution will not cause the fees and charges currently being paid by existing Contractowners to be greater after the proposed substitution than before the proposed substitution. Although GIAC reserves the right to limit the frequency of transfers among the Account's investment divisions to not more than one every 30 days, the substitution will not be treated as a transfer which may be restricted due to earlier patterns of frequent transfers.

11. On June 20, 1990, Contractowners and prospective investors were notified that, effective June 30, 1990, GIAC would cease offering the Government Trust as an investment option under the Contracts and that premium payments, loan repayment, and transfers of account values could no longer be allocated to the Government Trust's investment division. All affected Contractowners have received notice that GIAC is seeking an Order from the Commission approving the substitution, and that they may, at any time prior to the proposed substitution, transfer their account values, from the Government Trust's investment division to any of the other investment divisions of the Account, or to the Real Estate Account, even though another transfer may have been made within the prior 30 days. The Contract does not provide for transfer fees, so none will be imposed in connection with such transfers. In addition, within 5 days after the substitution, any Contractowners who had account values automatically transferred in connection with the proposed substitution will be sent a written notice which reiterates their rights to make an "unrestricted transfer" from the Cash Fund's investment division during the 30 days following the substitution, or, as provided by the Contract under state insurance law, to exchange their Contracts for fixed-benefit life insurance issued by GIAC or one of its affiliates during the 60 days following the substitution.

12. The Contracts reserve to GIAC the right, subject to Commission approval, to substitute shares or units of another open-end management investment company or unit investment trust for shares of an investment company or unit investment trust held by an investment division of the Account. The Contract clearly states this and the propectus for the Account contains similar disclosure.

GIAC reserved this right of substitution to protect itself and its Contractowners in precisely the type of circumstances it faces now; namely, the failure of an underlying management investment company to meet the reasonable expectations of its legal and beneficial security holders that it would grow to sufficient size to attain reasonable net investment return for a fund of its type.

13. With no recent interest among its current Contractowners, very few new sales of the Contracts, and the relatively high level of expenses experienced by the Government Trust, GIAC has determined that it is in the best interests of the Contractowners to replace the Government Trust with the Cash Fund which, because of its size, has attained economies of scale not available to the Government Trust, and which can be expected to continue to increase its size and economies of scale in the future.

14. The proposed substitution will effectively consolidate assets of the discontinued Government Trust's investment division with those invested in the Cash Fund. The Cash Fund's current per share ratio of expenses to average daily net assets is dramatically lower than that for the Government Trust and is expected to remain so for the foreseeable future.

15. The Cash Fund is a suitable and appropriate investment vehicle for Contractowners currently invested in the Government Trust's investment division. While the Account's Bond Fund investment division provides Contractowners with the opportunity to make allocations to a fund which, like the Government Trust, seeks to obtain maximum income without undue risk of principal, GIAC believes that the relative safety afforded by the Cash Fund makes it a better vehicle for an automatic transfer occasioned by a substitution. GIAC believes that Contractowners should decide for themselves whether allocating account values to the Bond Fund's investment division satisfies their investment objective because its underlying fund invests a small portion of its assets in high yield debt securities that are rated lower than investment grade quality.

16. The proposed substitution will be only temporary in character because Contractowners may always exercise their own judgment as to the most appropriate alternative investment vehicle. All affected Contractowners may, at any time before the substitution,

transfer their account values from the Government Trust's investment division to any other investment division of the Account, or to the Real Estate Account. Further, during the 30 days after the substitution, they may also transfer from the Cash Fund's investment division to any of the remaining seven investment divisions of the Account or to the Real Estate Account. Any such transfers, whether effected before or after the substitution will be without cost or other disadvantage.

17. The proposed substitution is not the type of substitution which section 26(b) was designed to govern. Unlike traditional unit investment trusts where a depositor or trustee can only substitute an investment security in a manner which permanently affects all the investors in the trust, the Account (although analogous to unit investment trusts in many ways) provides each Contractowner with the right, in effect, to make his or her own substitutions and thereby protect his or her investment without redemption. The proposed substitution will not, therefore, result in the type of costly forced redemption which section 26(b) was intended to guard against. No deductions or charges will be made beyond those already provided for in the Contracts and the substitutions will be effected at relative net asset value without the imposition of any charge.

18. The proposed substitution is also unlike the type of substitution which section 26(b) was designed to govern in that by purchasing a Contract, owners select much more than a particular investment company in which to invest their account values. Just as importantly, they also select the specific type of insurance coverage offered by the Contract as well as numerous other rights and privileges set forth in the Contract. Owners may also consider the issuing insurance company's size, financial condition, type (stock or mutual) and its reputation for service. These factors will not change as a result of the proposed substitution.

19. The proposed substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-18614 Filed 8-8-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17652; 812-7057]

IDS Certificate Company et al.; Application

August 3, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: IDS Certificate Company ("IDSC") and IDS Bank & Trust.

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of section 28(c) and order requested under section 28(c).

SUMMARY OF APPLICATION: Applicants seek an amended conditional order to permit the custodian of IDSC, currently IDS Bank & Trust, to deposit, or cause or permit the deposit of, foreign securities of IDSC with the Euroclear System ("Euroclear") or Central de Livraison de Valeurs Mobilieres, S.A. ("CEDEL"), as foreign depositories.

FILING DATES: The application was filed on June 29, 1988, and was amended and restated on January 31, 1989, May 15, 1989, September 14, 1989, and March 23, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 30, 1990, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, IDS Tower 10, Minneapolis, MN 55440, Attn: Bruce A. Kohn, Esq.

FOR FURTHER INFORMATION CONTACT: Jeremy N. Rubenstein, Branch Chief, at (202) 272-3022 (Division of Investment Management, Office of Investment Company Regulation).

SUPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. IDSC is a face-amount certificate company registered under the Act. Pursuant to an order of the SEC, Investment Company Act Release No. 14712 (Sept. 11, 1985) ("prior Order"), IDS Bank & Trust currently serves as the custodian of IDSC's securities. In the Prior Order, the SEC approved the terms and conditions of IDSC's current Depository and Custodial Agreement and approved IDS Trust Company, now known and organized as IDS Bank & Trust, as a potential custodian of IDSC's securities. Applicants now request that the SEC grant an amended order to permit IDSC's custodian, currently IDS Bank & Trust, to deposit, or cause or permit the deposit of, securities and other assets of IDSC with Euroclear and CEDEL as foreign depositories, subject to the conditions set forth below.

2. Under the proposed depository arrangements, described in the application as the Foreign Deposit Agreement, IDS Bank & Trust would provide IDSC with custody services that would permit the foreign securities of IDSC to be held abroad on deposit in Eurocear and CEDEL. Foreign depository services would be offered by IDS Bank & Trust pursuant to arrangements that would be identical to those applicable to registered management investment companies under Rule 17f-5 of the Act, except that IDS Bank & Trust would provide indemnification as described below and only Euroclear and CEDEL would qualify as eligible foreign depositories for IDSC's securities.

3. IDSC requests that the SEC approve the Foreign Deposit Agreement under section 28(c) and that it be permitted to change its custodian under the Foreign Deposit Agreement without amending this order or seeking a new order. IDSC represents that it may negotiate from time to time with various providers of custodial services if IDSC felt that it was more advantageous to change custodians. IDSC states that it would seek to change custodians for many reasons, including but not limited to dissatisfaction with the quality of a custdoian's services, fee increases, or changes in management or location. Prior approval of the Foreign Deposit Agreement would enable IDSC to change custodians without the delays or interruptions associated with seeking a new order of the SEC.

4. The board of directors of IDSC will be required to approve the custodian by majority vote, including a majority of the independent directors and, once approved, the board will review the

custodial arrangements on an annual basis to determine if the quality of service remains satisfactory and the fees are reasonably competitive.

Applicants' Legal Analysis

1. Pursuant to section 28(c) of the Act, IDSC is required to deposit its reserves only with institutions that meet the requirements of section 26(a)(1) of the Act for a trustee of a unit investment trust. Section 26(a)(1) states that a unit investment trust must be governed by a trust indenture or other instrument that designates "one or more trustees or custodians, each of which is a bank * * *."

2. The term "bank" is defined in section 2(a)(5) of the Act as "(A) a banking institution organized under the laws of the United States, (B) a member bank of the Federal Reserve System, [and] (C) any other banking institution or trust company, whether incorporated or not, doing business under the laws of any State or the United States * * * receiving deposits or exercising fiduciary powers * * *." The SEC has stated that an overseas branch of a domestic bank is the only facility located outside the United States which qualifies as a custodian under the definition of a bank under section 2(a)(5) of the Act. *See* Exemption for Custody of Investment Company Assets Outside the United States, Investment Company Act Release No. 13724 (January 17, 1984). The SEC has also indicated that a foreign-incorporated subsidiary does not meet this definition. See International Resources Fund, Inc., Investment Company Act Release No. 2874 (May 4, 1959).

3. Neither Euroclear nor CEDEL meets the definition of a bank under the Act and, as a result, neither qualifies as a depository for IDSC under section 28(c). Euroclear and CEDEL are two of the largest clearing and custody systems for internationally traded securities. They were organized principally to provide simple, economic, and automated means of settling transactions in internationally traded securities regardless of the geographical location of the parties to the transaction. The branch of Morgan Guaranty in Brussels, Belgium operates Euroclear, and is subject to regulation by the New York and federal banking authorities and the Belgian Banking Commission. Belgian law also governs Morgan Guaranty's liability as custodian and operator of Euroclear under the Terms and Conditions Governing the Euroclear System, which constitutes the contract between Euroclear and each participating entity that has an account with Morgan Guaranty Brussels with respect to its participation in Euroclear. CEDEL was founded as a limited company under the laws of the Grand Duchy of Luxembourg. CEDEL has its headquarters in Luxembourg and has representative offices in London, New York, and Tokyo. CEDEL operates under the supervision of the Institute Monetaire Luxembourgeois, the Luxembourg Monetary Authority, which is also the banking control authority of the Grand Duchy of Luxembourg.

4. Section 17(f) of the Act provides that a registered management investment company may place and maintain its securities and similar assets in the custody of (1) a bank or banks having the qualifications set forth in section 26(a)(1) of the Act; (2) a member firm of a national securities exchange; (3) the investment company itself; or (4) a system for the central handling of securities established by a national securities exchange or national securities association registered with the SEC or such other person as may be permitted by the SEC. Rule 17f–5 under the Act provides an exemption from the custody requirements of section 17(f) of the Act to enable United States and Canadian registered management investment companies to place and maintain foreign securities, as defined in the rule, with certain foreign custodians, provided that the directors make determinations that the foreign custody arrangements are consistent with the best interests of the investment company. Both Euroclear and CEDEL qualify as eligible foreign custodians under rule 17f–5.

5. When it proposed Rule 17f–5, the SEC noted that registered management investment companies which intended to invest in securities of foreign issuers had encountered difficulties in locating entities in foreign countries which were qualified under section 17(f) to act as custodians. *See* Investment Company Act Release No. 12354 (April 5, 1982) ("Proposing Release").

6. Section 17(f) of the Act by its terms applies to "every registered management company." Pursuant to section 4(3) of the Act, this definition excludes a face-amount certificate company. Similarly, Rule 17f–5, which governs the custody of investment company assets outside the United States, does not apply to the assets of a face-amount certificate company. Applicants contend that the use of eligible foreign custodians for securities of registered management investment companies, as set forth in Rule 17f–5 under the Act, provides precedent for allowing IDSC, a face amount certificate company, to cause or permit its custodian to deposit its foreign securities with Euroclear or CEDEL.

7. Applicants argue that a common protective mechanism exists between the operation of a registered management investment company and IDSC: both are governed by a board of directors, the majority of whom are not interested persons as defined in the Act. The board of directors of a registered management investment company has been assigned by Rule 17f–5 with a number of supervisory and monitoring roles with respect to foreign custody arrangements. IDSC's board of directors will, with respect to foreign depository services offered to IDSC, fulfill substantially all of the supervisory and monitoring roles currently assigned by Rule 17f–5 to the board of directors of a management investment company.

8. IDSC's board of directors has a fiduciary duty to IDSC's shareholder, IDS Financial Corporation ("IDS"). It may not owe this same fiduciary duty to its certificateholders as holders of debt securities. However, when the directors fulfill their fiduciary duty to IDS in meeting all of the safeguards contained in Rule 17f–5, IDSC's board, including the independent directors, will in essence be providing that same comfort to the certificateholders. Applicants claim that the economic impact of this duty is important. Before any certificateholder would lose any money, IDS, as the sole holder of equity in IDSC, would be the first entity to be economically disadvantaged if any of the safeguards provided for in Rule 17f–5 were not met and money was lost in IDSC's portfolio. IDS as sole shareholder would suffer the loss. Consistent with IDSC's obligations to its shareholder, as well as to its certificateholders, it is in IDSC's best interest not to lose revenue. In view of the economic stake of the shareholder and the fact that Euroclear and CEDEL are established depositories whose benefits have been widely recognized, applicants believe the directors' existing duties will provide more than adequate assurance of the appropriateness of their selection of these depositories.

9. Applicants believe that compliance with the requirements of Rule 17f–5, with the added protection of the indemnification provisions described below, is consistent with the purpose of Section 26: to provide for investor protection by ensuring that unit investment trust and, through section 28(c), face-amount certificate company assets are safely maintained.

Applicants' Conditions

Applicants agree to the following conditions in connection with the relief requested:

1. Applicants will seek an amendment to the requested order if IDSC's foreign securities were to be held by successors of either Euroclear or CEDEL or any entity other than Euroclear or CEDEL.

2. IDSC's board of directors will, with respect to foreign depository services offered to IDSC, fulfill substantially all of the supervisory and monitoring roles currently assigned by Rule 17f–5 of the Act to the board of directors of a management investment company. Consistent with a no-action letter, Investment Company Institute (pub. avail. Oct. 29, 1987) ("no-action letter"), IDSC's board of directors, while retaining the ultimate responsibility for monitoring the foreign depository arrangements under paragraph (a)(2) of Rule 17f–5, will retain its custodian, currently IDS Bank & Trust, to assist the directors in monitoring the foreign depository arrangements in accordance with paragraph (a)(2) of Rule 17f–5.

3. As long as securities owned by IDSC are held on deposit at Euroclear or CEDEL, IDSC's custodian will report annually to IDSC's board whether or not the custodian has become aware of any difficulties in maintain securities at Euroclear or CEDEL in light of the terms and conditions of the order requested in the application. This report will also include:

a. The overall financial strength of the depository in which IDSC maintains its assets. This will include the annual reports from Euroclear and CEDEL, so long as they are approved by the board as depositories; such other interim financial statements received from either depository, as well as other relevant information received by the custodian as to financial strength of Euroclear and CEDEL, so long as they are approved by the board as depositories;

b. A summary of any significant operating problem experienced with the specific depository; and

c. A recommendation as to whether to continue to maintain IDSC's assets with the depositories.

The custodian will provide interim reports reporting any material change and providing any interim financial statements of the depository where IDSC's securities are being held at the time. The custodian will report immediately to an officer of IDSC the occurrence of any significant operating problem or other event that may bring into question the adequacy of any depository arrangement or the continued viability of utilizing the depository.

4. With respect to its supervisory role, prior to the holding of foreign securities of IDSC in Euroclear or CEDEL, a majority of the board will (a) make a determination that maintaining IDSC's assets in the particular countries in which Euroclear or CEDEL would hold securities is consistent with the best interests of IDSC, its shareholder and certificateholders; (b) make a determination that maintaining IDSC's assets with Euroclear or CEDEL is consistent with the best interests of IDSC, its shareholder and certificateholders; and (c) at least annually, review and approve the continuance of the use of Euroclear and CEDEL as foreign depositories as in the best interests of IDSC, its shareholder and certificateholders. The board, in making such determinations, would consider various factors, such as the comparative operational efficiencies of custody, clearance and settlement and the costs thereof and the political and other risks attendant to the holding of foreign securities in Euroclear or CEDEL. With IDSC's board assuming ultimate responsibility, IDSC's custodian will undertake in the Foreign Deposit Agreement that it will establish a system to monitor the foreign custody arrangements, as set out in condition number three above, in accordance with paragraph (a)(2) of Rule 17f–5, to ensure compliance with the conditions of Rule 17f–5.

5. The contract, which would contain provisions satisfying the requirements of Rule 17f–5(a)(1)(iii)(A–F), will be between IDSC and its custodian, currently IDS Bank & Trust. Prior to future deposits of foreign securities of IDSC in Euroclear or CEDEL, this contract, the Foreign Deposit Agreement, will be approved by a majority of the board, as consistent with the best interests of IDSC, its shareholder and certificateholders, and will include representations providing for the board's fulfilling the duties given to the board of directors of a management investment company under Rule 17f–5. In addition, where the custodian has determined that Euroclear or CEDEL may no longer be considered eligible under the terms of the Foreign Deposit Agreement or that continuance of the arrangement would not be consistent with the best interests of IDSC, its shareholder and its certificateholders, the custodian must withdraw IDSC's assets from the care of Euroclear or CEDEL as soon as reasonably practicable, and in any event within 180 days of the date when the custodian made the determination.

In addition, before the custodian holds securities for IDSC pursuant to any depository or membership contract with Euroclear or CEDEL under the requested order, the board shall specifically consider whether, under the terms of the contract and without regard to the indemnity provided by the custodian, IDSC will be adequately indemnified and its assets adequately insured in the event of loss. In doing so, in accordance with the no-action letter, the board may determine that there is adequate indemnification and insurance if the contract provides for adequate insurance or adequate indemnification or an adequate combination of the two.

The determinations set forth above to be made by the board would be made only after consideration of all matters which the board, in carrying out its fiduciary duties, finds relevant, including but not necessarily limited to, consideration of the following:

a. With respect to the selection of the countries where IDSC's assets may be maintained, the board will consider:

i. Whether applicable foreign law would restrict the access afforded IDSC's independent public accountant to books and records kept by an eligible foreign custodian located in that country;

ii. Whether applicable foreign law would restrict IDSC's ability to recover its assets in the event of the bankruptcy of an eligible foreign custodian located in that country;

iii. Whether applicable foreign law would restrict IDSC's ability to recover assets that are lost while under the control of an eligible foreign custodian located in that country;

iv. The likelihood of expropriation, nationalization, freezes, or confiscation of IDSC's assets; and

v. Whether difficulties in converting IDSC's cash and cash equivalents to U.S. dollars are reasonably foreseeable.

b. With respect to the selection of an eligible foreign custodian, the board will consider:

i. The financial strength of the eligible foreign custodian, its general reputation and standing in the country in which it is located, its ability to provide efficiently the custodial services required and the relative cost for those services;

ii. Whether the eligible foreign custodian would provide a level of safeguards for maintaining IDSC's assets not materially different from that provided by the custodian in maintaining IDSC's securities in the United States;

iii. Whether the eligible foreign custodian has branch offices in the

United States in order to facilitate the assertion of jurisdiction over and enforcement of judgments against such custodian; and

iv. In the case of an eligible foreign custodian that is a foreign securities depository, the number of participants in, and operating history of, the depository.

c. The extent of IDSC's exposure to loss because of the use of an eligible foreign custodian. The potential effect of such exposure upon IDSC and its certificateholders will be disclosed, if material, in IDSC's annual report and certificate prospectuses.

6. IDSC's custodian, currently IDS Bank & Trust, will be liable to IDSC for assets held at Euroclear or CEDEL to the same extent that the custodian would be liable if those assets were held directly by the custodian. Thus, under paragraph 10 of the Foreign Deposit Agreement, the custodian will indemnify and hold IDSC harmless from and against any loss which occurs as the result of the failure of Euroclear or CEDEl while holding foreign securities of IDSC to exercise reasonable care with respect to the safekeeping of such foreign securities to the same extent that the custodian would be required to indemnify and hold IDSC harmless if the custodian itself were holding such foreign securities in the United States.

7. Applicants agree that they will abide by the terms and conditions set forth in the Foreign Deposit Agreement.

8. IDSC agrees to the conditions set forth under the Prior Order, Investment Company Act Release No. 14712 (Sept. 11, 1985), with respect to any change in custodian under the Foreign Deposit Agreement. IDSC may change its custodian where (a) substantially the same Foreign Deposit Agreement is used and (b) IDSC undertakes the analysis and review of the proposed custodian and custodial arrangements set forth in the application.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR. Doc. 90-18710 Filed 8-8-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-17639; File No. 812-7496]

Minnesota Mutual Life Insurance Co., et al.

August 1, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order under the Investment Company Act of 1940 ("Act").

APPLICANTS: The Minnesota Mutual Life Insurance Company ("Minnesota Mutual"), MIMLIC Sales Corporation ("MIMLIC Sales"), MIMLIC Series Fund, Inc. (the "Series Fund") and Minnesota Mutual Variable Fund D ("Fund D").

RELEVANT 1940 ACT SECTIONS: Exemptions requested under section 6(c) of the Act from sections 26(a)(2) and 27(c)(2), and under section 17(b) of the act from section 17(a), and approval requested pursuant to rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit them to effect a reorganization of Fund D from a management investment company into a unit investment trust (the "Reorganization"), including the sale of Fund D's portfolio securities to the Stock Portfolio of the Series Fund. Additionally, Applicants seek an order to permit them to deduct mortality an expense risk charges under contracts funded by Fund D as reorganized.

FILING DATE: The Application was filed on March 19, 1990 and amended on July 6, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m. on August 27, 1990. Request a hearing in writing, given the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC 450 5th Street, NW., Washington, DC 20549. Applicants, 400 North Robert Street, St. Paul, Minnesota 55101-2098.

FOR FURTHER INFORMATION CONTACT: Michael V. Wible, Staff Attorney, (202) 272-2026 or Heidi Stam, Assistant Chief, Office of Insurance Products, at (202) 272-2060 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Minnesota Mutual is a mutual life insurance company organized under the laws of Minnesota. Fund D, registered under the act as a management investment company, is a separate account of Minnesota Mutual established on October 16, 1967 to facilitate issuance of certain variable annuity contracts (the "Contracts").

2. The Series Fund, registered under the act as an open-end diversified, managed investment company, is organized as a series company consisting of seven portfolios ("Portfolios"). The Portfolios include the Stock, Money Market, Bond, Managed, Mortgage Securities, Index and Aggressive Growth Portfolios. Shares of each Portfolio are currently sold to Minnesota Mutual Variable Life Account and Minnesota Mutual variable Annuity Account, both separate accounts of Minnesota Mutual.

3. MIMLIC Sales, an indirect wholly-owned subsidiary of Minnesota Mutual, is registered as a broker-dealer under the securities Exchange Act of 1934 and is the principal underwriter for the Contracts. The Contracts are sold by life insurance agents of Minnesota Mutual who are associated persons of either MIMLIC Sales or other broker-dealers who have entered into selling agreements with MIMLIC Sales. MIMLIC Sales is an Applicant only with regard to the section 6(c) relief necessary to permit the continued deduction of the Contract's mortality and expense risk charges after the Reoganization.

4. The Contracts are variable annuity contracts issued by Minnesota Mutual that use Fund D as a funding vehicle. Each of the contracts has been used primarily in connection with certain tax-qualified retirement plans, three for group plans and two for individual plans. No new Contracts are currently being offered to the public, although payments continue to be accepted under the existing contracts.

5. Each Contract deducts daily from the assets of Fund D a mortality and expense risk charge of 0.795% on an annual basis. This represents a mortality risk charge of 0.1325% and an expense risk charge of 0.6625%, on an annual basis. Daily deductions are made from Fund D assets at an annual rate of 0.265% for investment management services. No separte deduction is made for contract administration.

6. Three of the Contracts assess a front-end sales load of up to 7% of each purchase payment. The other two Contracts impose contingent deferred

sales loads of 6% and 9% respectively, on certain withdrawals and surrenders during the first ten contract years. The aggregate sales charges deducted under these two Contracts will never exceed 9% of aggregate payments made under the Contracts.

7. Subject to Fund D Contract owner approval, Fund D will be converted from a management investment company to a unit investment trust ("Continuing Fund D") with six subaccounts ("Subaccounts"). The assets and liabilities of Fund D will be transferred to the Stock Portfolio of the Series Fund at net asset value in accordance with the requirements of section 22(c) of the Act and Rule 22c–1 thereunder, in exchange for shares of the Stock Portfolio. Immediately after the transaction, each Contract will be funded by an interest in the Stock Subaccount of Continuing Fund D, which will hold shares of the Stock Portfolio of the Series Fund. Thereafter, Contract owners will be able to exchange at net asset value their interests in the Stock Subasccount of Continuing Fund D for any other Subaccount of Continuing Fund D and thus, an indirect interest in any Portfolio of the Series Fund other than the Aggressive Growth Portfolio. Exchanges to or from the General Account may be limited to one per contract year. Exchanges are permitted only during the Contracts' accumulation period. Otherwise, exchanges permitted under the Contracts so endorsed will neither be limited in number nor subject to any charge or fee.

8. Applicants represent that the exchange of assets of Fund D for shares of the Stock Portfolio of the Series Fund is fair, reasonable and free of overreaching. Both Fund D and the Series Fund's Stock Portfolio value their portfolio securities in the same way. Money market instruments with 60 days or less remaining until maturity are not valued identically. However, Fund D will not hold any such instruments as of the date that its securities will be transferrred to the Stock Portfolio. Therefore, securities transferred from Fund D to the Stock Portfolio will have the same value regardless of which entity holds them. Accordingly, there will be no differences in valuation methods that could lead to potential dilution of the interests of Fund D Contract owners and participants of other variable annuity or variable life insurance contracts whose contracts already are funded by investment in the Stock Portfolio. The Applicants represent that the value of the beneficial interest of each variable contract owner and participant having an interest in either investment company will be identical after the exchange of assets for shares to its value before the exchange.

9. The investment objectives of the Stock Portfolio are virtually identical to those of Fund D. The assets of both the Stock Portfolio and of Fund D usually are invested in a diversified portfolio of equity securities, mainly common stocks, across all industry sectors. The Applicants represent that all of the assets to be acquired by the Stock Portfolio of the Series Fund in the Reorganization will be suitable investments for that Portfolio. Further, the Applicants do not anticipate that there will be any need to liquidate any portfolio securities held by Fund D in order to complete the Reorganization. If such unforeseen need should arise, Minesota Mutual, as part of its commitment to bear all costs of the Reorganization, would bear any associated transaction costs of the liquidation.

10. No brokerage commissions or other transaction costs will be incurred in connection with the acquisition of Fund D's portfolio securities by the Stock Portfolio. The Applicants represent that the growth that results from the acquisition of Fund D's securities will be more beneficial to those Contract owners who now have an indirect beneficial interest in the Stock Portfolio than would growth from new sales of the Portfolio. Contract owners and participants with an interest in the Stock Portfolio prior to the Reorganziation will, following the Reorganization, have the opportunity to benefit from economies of scale that accompany growth in assets without the usual brokerage or other transaction expenses that normally accompany such growth. Additionally, as a result of the Reorganization, Contract owners and participants with an interest in Continuing Fund D will have expanded investment options available to them at subsidized expense levels without having to forego their ongoing equity-based option with its expense level. Finally, the Applicants represent that as a result of its increase in size it should be able to satisfy its diversification requirements more easily.

11. After the Reorganization, Continuing Fund D Contract owners and participants will exercise voting rights by instructing Minnesota Mutual with regard to how shares of the Series Fund Portfolios attributable to their Contracts should be voted. Prior to the Reorganization Fund D Contract owners voted their shares directly. Each continuing Fund D Contract owner or participant will have the same voting power in relation to other Fund D Contract owners and participants after the Reorganization that he or she had before the Reorganization. Minnesota Mutual will vote Series Fund shares held by Fund D for which no voting instructions have been received in the same proportion as those for which instructions have been received. The only difference in voting power before and after the Reorganization results from the fact that Fund D will not be the only separate account with money invested in the Series Fund Portfolios. Thus, contract owners and particpants of other separate account would also instruct Minnesota Mutual with regard to voting Series Fund Portfolio shares in proportion to their indirect economic interests. The order granting exemptive relief necessary to engage in "mixed funding" is based in part upon the Series Fund Board's obligation to monitor for irreconciliable differences in the interests of the participants in different separate accounts, and Minnesota Mutual's obligation to bear the cost of taking whatever action is necessary to resolve those differences. *See* Investment Company Act Release No. 15466 (Dec. 8, 1986) (Notice).

12. As part of the Reorganization, Minnesota Mutual has agreed to bear all the costs of the Reorganization and has made certain reimbursement guarantees in connection with the Reorganization. After the Reorganization, no investment management fee will be charged directly to Continuing Fund D, since it will have become a unit investment trust with no investment manager. In addition, to ensure that no Contract owner or particpant will lose the benefit of the low investment management fee applicable to the assets of Fund D prior to the Reorganization, Minnesota Mutual will take steps to ensure that the Stock Subaccount will not indirectly bear investment management related fees and expenses in excess of .265% annually. To the extent such expenses exceed an annual rate of .265%, Minnesota Mutual will bear those expenses rather than pass them on to Contract oweners or participants.

13. Allocations to other Sub-Accounts of Continuing Fund D which invest in other Porfolios of the Series Fund will receive reimbursements limited to the difference between the Series Fund Portfolio's investment advisory fee and the .265% fee for investment management paid by Fund D prior to the Reorganization. These other Portfolios may incur other operating expenses of the type that are counted when computing an investment company's

expense ratio. These expenses have in the past been voluntarily assumed by Minnesota Mutual to the extent that they exceed .15% on an annual basis. While Minnesota Mutual has no present intention of eliminating its voluntary assumption of Series Fund Portfolio operating expenses in excess of 0.15%, it will continue to retain its option to do so at any time. Contract owners and participants will incur increased investment managment related expenses only if they choose to avail themselves of one or more of the five new investment alternatives not available under the Contracts prior to Reorganization. Further, if Contract owners and participants choose to allocate contract and account values to one or more Subaccounts offering new investment options and thereby incur greater expenses, they will do so only after receiving full disclosure of all charges and expenses.

14. The Series Fund's Board and Fund D's Committee, including those members of each body who are not interested persons of their respective investment company or of Minnesota Mutual, have approved the transaction based upon findings that the transaction will be in the best interests of those investment companies and will not involve the dilution of the interest of any Contract owner or participant. In each case, the approval and findings received a unanimous vote, including the affirmative vote of all of the non-interested Directors and Committee Members. All investments in any Portfolio of the Series Fund will bear the same direct expenses at the Series Fund level. Because the adjustments are made to individual accounts at the separate account level, no new "class" of Series Fund shares will be created. Minnesota Mutual has received an opinion of its tax counsel that the Reorganization will not result in taxable income or in a tax liability to Minnesota Mutual or to Fund D.

15. Applicants assert that the basis of participation in the Reorganization of Fund D is no more or less advantageous than that of the Series Fund and that the basis of participation of each is not less advantageous than that of Minnesota Mutual. The Stock Portfolio of the Series Fund will participate primarily by acquiring assets in a way that is less expensive than, but otherwise just as beneficial as, other types of growth. Fund D will participate by converting to a unit investment trust that will afford its Contract owners and participants the opportunity to take advantage of a variety of investment options not currently permitted under their Contracts at rates subsidized by Minnesota Mutual. Minnesota Mutual's primary basis of participation is that it will pay all expenses of the Reorganization and will make reimbursement promises that are likely to reduce the total remuneration that it receives under the Contracts.

16. Applicants request an order pursuant to section 6(c) of the Act exempting them to the extent necessary to continue to deduct from the assets of Continuing Fund D the same level of mortality and expense risk charges that have been deductible from the assets of Fund D under the Contracts.[1]

17. Applicants assert the mortality and expense risk charge of 0.795% is reasonable in relation to the risks assumed under the Contracts by Minnesota Mutual and that the level of the mortality and expense risk charge is within the range of industry practice for comparable variable annuity contracts. Minnesota Mutual conducted an analysis of the mortality and expense risk charges and the contract features of a variety of comparable variable annuity contracts whose offerings were registered with the Commission and concluded that the charges under the Contracts compared favorably. The memorandum setting forth Minnesota Mutual's conclusions in this regard will be maintained by Minnesota Mutual and will be subject to Commission examination.

18. Applicants represent that the contingent deferred sales charges under the Contracts having such charges are expected to be sufficient to cover all costs relating to the distribution of those Contracts. The sales loads deducted from premium payments made with respect to the other Contracts will cover all costs relating to the distribution of those Contracts. If a profit is realized from the mortality and expense risk charges, all or a portion of that profit may be offset by distribution expenses not reimbursed by the contingent deferred sales charge. Minnesota Mutual represents that it has concluded that there is a reasonable likelihood that its method of financing distribution expenses in respect of the Contracts will benefit Continuing Fund D and Contract owners and participants. Minnesota Mutual will maintain, subject to Commission examination, a memorandum setting forth the basis for its conclusion that its method of financing Contract distribution expenses will benefit Contract owners and participants. Minnesota Mutual further represents that Continuing Fund D will invest only in an underlying mutual fund which undertakes that, in the event it should adopt any plan under Rule 12b-1 to finance distribution expenses, it will have that plan formulated and approved by a board, a majority of the members of which are not "interested persons" of the fund within the meaning of section 2(a)(19) of the Act.

19. In light of the foregoing, Applicants submit that: (1) Granting the exemptions requested pursuant to section 6(c) of the Act would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act; (2) granting the exemption requested pursuant to section 17(b) of the Act would be appropriate based upon findings that (a) the terms of the Reorganization, including all consideration to be paid or received, are reasonable, fair and do not involve overreaching on the part of any person concerned, (b) that participating in the Reorganization is consistent with the policies of Fund D and of the Series Fund as recited in their respective registration statements and reports filed under the Act, and (c) that the Reorganization is consistent with the general purposes of the Act; and (3) granting the approval requested pursuant to the Rule 17d-1 under the Act would be appropriate based upon findings that the participation of both Fund D and the Series Fund in the Reorganization would be consistent with the provisions, policies and purposes of the Act and that neither of their respective bases of participation would be less advantageous than that of other participants, including Minnesota Mutual.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-18615 Filed 8-8-90; 8:45 am]

BILLING CODE 8010-01-M

[1] Mortality and expense risk charges have been deducted from Fund D for more than 20 years in reliance upon two prior exemptive orders. *See Minnesota Mutual Life Insurance Company, et al.*, Investment Company Act Release Nos. 14786 (Nov. 5, 1985) (Notice); 14824 (Dec. 3, 1985) (Order); 5575 (Jan. 3, 1969) (Notice); 5593 (Jan 27, 1969) (Order).

[Rel. No. IC-17638 File No. 812-7540]

Northbrook Life Insurance Co., et al.

August 1, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Northbrook Life Insurance Company (the "Company"); Northbrook Variable Annuity Account II (the "Variable Account"); and Dean Witter Reynolds Inc. ("Dean Witter").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from sections 26(a)(2)(C) and 27(c)(2).

SUMMARY OF APPLICATION: Applicants seek an order to permit the deduction of a mortality and expense risk charge from the assets of the Variable Account under certain variable annuity contracts.

FILING DATE: June 14, 1990.

HEARING OR HEARING OF NOTIFICATION: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on August 27, 1990. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally, or by mail and also, send a copy to the Secretary of SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notifications of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549; the Company and the Variable Account, 3100 Sanders Road, Northbrook, Illinois 60062, Attention: Robert S. Seiler; Dean Witter, Two World Trade Center, New York, New York 10048, Attention: Dennis H. Greenwald.

FOR FURTHER INFORMATION CONTACT: Barry Miller, Staff Attorney at (202) 272–3012 or Heidi Stam, Special Counsel at (202) 272–2060, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier: 800/231–3282 (in Maryland 301/253–4300).

Applicants' Representations

1. The Company was incorporated in 1978 as a stock life insurance company under the laws of Illinois. The Company established the Variable Account as a segregated investment account on May 18, 1990, as a facility through which to set aside and invest assets attributable to certain flexible permium variable annuity contracts ("Contracts"). Dean Witter is the principal underwriter of the Contracts

2. The Contracts are designed for use by individuals in retirement plans which qualify for special Federal income tax treatment under sections 401, 403 or 408 of the Internal Revenue Code ("qualified" plans and contracts) and in retirement plans which do not qualify for special tax treatment under those sections ("non-qualified" plans and contracts).

3. Purchase payments under the Contracts may be allocated to one or more of the Sub-Accounts of the Variable Account. Each Sub-Account invests solely in shares of a particular portfolio of the Dean Witter Variable Investment Series.

4. The Company wil deduct annually a contract maintenance charge of $30.00 from the contract value to reimburse the Company for its costs in maintaining each Contract and the Variable Account. The Company does not expect to realize a profit from this charge. The Company quarantees that the amount of the charge will not increase over the life of the Contract.

5. The Company will also deduct an administrative expense charge which is an amount equal on all annual basis to 0.10% of the daily net assets in the Variable Account. This charge is designed to cover actual administrative expenses which exceed the revenues from the contract maintenance charge. The Company believes that the administrative expense charge and the contract maintenance charge have been set at a level that will recover no more than the actual costs associated with administering the Contract.

6. The owner may withdraw the cash value at any time before the earlier of the payout start date or the annuitant's death. There is no contingent deferred sales load on the first withdrawal of each contract year on amounts up to the free withdrawal amount, i.e. 15% of purchase payments except purchase payments made within one year of the date of withdrawal. For purposes of calculating the amount of the contingent deferred sales load, withdrawals are assumed to come from purchase payments first, beginning with the oldest payment. Amounts withdrawn in excess of the free withdrawal amount are charged a contingent deferred sales load at a rate beginning at 6% and declining 1% for each complete contract year since the purchase payment was made. The cumulative total of all contingent deferred sales loads is guaranteed never to exceed 6% of an owner's purchase payments.

7. The Company will deduct a daily mortality and expense risk charge at an effective annual rate of 1.25% of the daily net assets of the Variable Account. The level of this charge is guaranteed and will not change. This charge is allocable appoximately 0.85% to the Company's assumption of mortality risks, and approximately 0.40% to the assumption of expense risks. Under the Company's current procedures, these amounts are paid to the general account monthly. If the mortality and expense risk charge is insufficient to cover the Company's mortality costs and excess expenses, the Company will bear the loss. If the mortality and expense risk charge is more than sufficient, the Company will retain the balance as profit. The Company currently expects a profit from this charge. Any such profit, as well as any other profit realized by the Company and held in its general account (which supports insurance and annuity obligations), would be available for any proper corporate purpose, including, but not limited to, payment of distribution expenses.

8. Applicants request that the Commission, pursuant to section 6(c) of the 1940 Act, grant an exemption in connection with Applicants' assessment of the mortality and expense risk charge. Applicants assert that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1990 Act.

9. Applicants represent that the mortality and expense risk charge under the Contracts is consistent with the protection of investors, and maintain that it is a reasonable and proper insurance charge. In return for this amount, Applicants assert that the Company guarantees certain risks in the Contracts. Applicants submit that the mortality and expense risk charge is a reasonable charge to compensate the Company for the risk that annuitants under the Contracts will live longer as a group than has been anticipated in setting the annuity rates guaranteed in the Contracts; for the risk that the cash value will be less than the death benefit prior to the payout start date; and for the risk that the amounts realized from the contract mainteance charges will be insufficient to cover actual administrative expenses.

10. The Company represents that the mortality and expense risk charge is within the range of industry practice with respect to comparable annuity products. This representation is based upon the Company's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, existence of charge level guarantees and guaranteed annuity

rates. The Company will maintain at its home office, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, the Company's comparative survey.

11. Applicants acknowledge that the contingent deferred sales load may be insufficient to cover all costs relating to the distribution of the Contracts. Applicants also acknowledge that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be viewed as being offset by distribution expenses not reimbursed by the contingent deferred sales load. The Company has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account and the Contract owners. The basis for such conclusion is set forth in a memorandum which will be maintained by the Company at its administrative offices and will be available to the Commission.

12. Applicants also represent that the Variable Account will invest only in management investment companies which undertake, in the event that it should adopt any plan under Rule 12b-1 to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not interested persons of the company formulate and approve any plan under Rule 12b-1 to finance distribution expenses.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-18607 Filed 8-8-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17647; File No. 812-7529]

Prudential Insurance Co. of America and The Prudential Series Fund, Inc

August 3, 1990.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: The Prudential Insurance Company of America ("Prudential") and The Prudential Series Fund, Inc. (the "Series Fund").

RELEVANT 1940 ACT SECTIONS: Order sought under sections 6(c) and 17(d) of the 1940 Act and Rule 17d-1 thereunder.

SUMMARY OF APPLICATION: The Applicants seek an order permitting various portfolios of the Series Fund ("Portfolios") to desposit their uninvested cash balances into a single joint account, the daily balance of which would be used to enter into one or more overnight (or weekend or holiday) repurchase agreements in a total amount equal to the aggregate daily balance in the joint account.

FILING DATE: The application was filed on June 4, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on August 28, 1990. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549; Applicants, Prudential Plaza, Newark, New Jersey, 07101.

FOR FURTHER INFORMATION CONTACT: Wendy B. Finck, Staff Attorney (202) 272-3045, or Heidi Stam, Assistant Chief (202) 272-2060, Office of Insurance Products and Legal Compliance (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Prudential is a mutual life insurance company and is registered as an investment adviser under the Investment Advisers Act of 1940.

2. The Series Fund is registered as an open-end management investment company under the 1940 Act. Shares of the Series Fund are sold exclusively to various separate accounts of Prudential and its subsidiaries established to fund individual variable annuity and insurance contracts issued by Prudential or its subsidiaries. The Series Fund is composed of 15 separate Portfolios whose assets are separately invested. Prudential or a wholly-owned subsidiary may in the future serve as investment adviser to additional Portfolios of the Series Fund established to fund variable annuity or insurance contracts issued by Prudential or its subsidiaries. The Series Fund submits this application on behalf of such Portfolios hereafter organized and operated in conformity with the representations in this application.

3. The Portfolios wish to deposit their uninvested cash balances at the end of each trading day into a single joint account, the daily balance of which would be used to invest in one or more large repurchase agreements in the total amount equal to the aggregate daily balance in the account. Presently, such uninvested cash balances of certain of the Portfolios are separately invested daily in individual purchases of U.S. government securities or repurchase agreements with a bank or major brokerage house secured by U.S. government securities or similar short-term investment contracts, in order to earn additional income for each Portfolio.

4. Each morning the repurchase desk operated by Prudential on behalf of the Portfolios begins negotiating the interest rate for repurchase agreements for that day and lining up the U.S. government obligations required as collateral. Most of the morning purchases of repurchase agreements are completed by 9:30 a.m. and the trading desk occasionally is able to place final orders between 1:30 p.m. and 2:30 p.m. Generally, there can remain in the respective account of each Portfolio some amount of its assets that is received too late, or is too small to be effectively invested in a separate transaction.

5. In connection with the use of repurchase transactions collateralized by U.S. government securities, the Applicants represent that each of the Portfolios has established the same systems and standards, including quality standards for issuers of repurchase agreements and for collateral, and requirements that the repurchase agreements will be at least 101.5% collateralized at all times. These uniform systems and standards will apply to all transactions contemplated by the Applicants' proposed joint account. Applicants further represent that all repurchase agreement transactions will be effected in accordance with Commission guidelines and interpretive letters.

6. Each repurchase agreement would be made by calling one of the government securities dealers, which may include U.S. commercial banks and non-bank primary government securities dealers, and indicating the rate of interest and size of the desired repurchase agreement. Particular U.S. government obligations to be held as collateral would then be indentified and the Portfolios' custodian bank would be

notified. The securities would either be wired to the account of the custodian bank at the proper Federal Reserve Bank, transferred to a sub-custodian account of the Portfolios at another qualified bank or redesignated and segregated on the records of the custodian bank if the custodian bank is already the recorded holder of the collateral for the repurchase agreement. This procedure would occur on almost every trading day for each of the Portfolios that wish to enter into joint repurchase agreements. The Applicants note that presently each Portfolio must separately pursue, secure, and implement such investments. This has resulted in certain inefficiencies and may limit the return which some or all of the Portfolios achieve.

7. The Portfolios pay approximately $22 per transaction to their custodian bank for processing each repurchase agreement. This fee is a processing fee only and is not related to the size of the transaction. During the twelve months ended December 31, 1989, these fees amounted to approximately $72,000 for the Portfolios. The Applicants represent that if the proposed joint account had been in place and the daily balances in the account were invested in a single repurchase agreement each business day, the estimated total transaction cost would have amounted to $26,000, an aggregate savings for the Portfolios of approximately $46,000 (before offsets due to increased wire costs).

8. The Applicants submit that each Portfolio, by participating in the proposed joint account, and Prudential, by managing the proposed joint account, could be deemed to be "a joint participant" in a transaction within the meaning of section 17(d) of the 1940 Act, and that the proposed account could be deemed to be a "joint enterprise or other joint arrangement" within the meaning of Rule 17d–1 under the 1940 Act. Although Prudential does not believe that it would be participating as a principal in a "joint enterprise or other joint arrangement" in effecting the proposed transactions on behalf of the Portfolios, its investment advisory fees do include compensation for managing each Portfolio's assets, including the assets contributed by each Portfolio to the joint account. Accordingly, Applicants seek and order under section 17(d) of the 1940 Act and Rule 17d–1 thereunder before implementing the proposed joint account.

9. Applicants state that the proposed joint account would not be distinguishable from any other account maintained by a Portfolio with its custodian or sub-custodian bank except that monies from the Portfolios could be deposited into the account on a commingled basis and that the account would not have any separate existence which would have indicia of a separate legal entity. Each Portfolio would automatically transfer its uninvested cash remaining after the conclusion of its daily trading activity into the account. The sole function of this account would be to provide a convenient way of aggregating what otherwise would be the one or more individual daily transactions for each Portfolio necessary to manage the daily uninvested cash balances of each Portfolio. Accordingly, the Applicants represent that each Portfolio would participate in the joint account on the same basis as every other Portfolio in conformity with its fundamental investment objectives and restrictions. Prudential would have no monetary participation in the joint account, but would be responsible for investing amounts in the account, establishing accounting and control procedures and ensuring the equal treatment of each Portfolio. The Portfolios' assets will continue to be held under proper bank custodial procedures.

10. The Applicants represent that the proposed joint account will not only permit the Portfolios to save substantial yearly transaction fees, but will also allow the Portfolios to negotiate higher rates of return; reduce errors by reducing the number of trade tickets; allow the Portfolios greater flexibility to cover excess cash near the end of each trading day; and result in an increase in the number of dealers willing to enter into repurchase agreements with some of the smaller Portfolios.

11. The Board of Directors of the Series Fund has considered the relative benefits to each Portfolio and to Prudential to be derived from the proposed arrangement and have determined that it would be beneficial to each Portfolio, that there is no basis on which to predicate greater benefit to any one Portfolio than to another, and that the benefits to Prudential of reduced administrative costs and duties are incidental compared to the potential benefits to each Portfolio. Applicants represent that any future Portfolios which utilize the joint account will be required to participate in the account on the same terms as the existing Portfolios. Moreover, the Board of Directors has determined that the operation of the joint account will be free of any inherent bias favoring one Portfolio over another; the qualitative benefits to the Portfolios of the joint account outweigh any quantitative disparities in the allocation of economic benefits among such Portfolios; and the anticipated benefits flowing to each Portfolio will fall within an acceptable range of fairness. Further, the Board of Directors determined that participation in such joint account by one or more future Portfolios would not alter its conclusions with respect to participation by the existing Portfolios and that it would be desirable to permit such future participation without the necessity of applying for an amended order.

12. Applicants conclude that the granting of the requested order would be necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act. Applicants further claim that participation in the proposed joint account by each Portfolio would not be on a basis different from or less advantageous than that of any other Portfolio participants and that the participation by Prudential would be ministerial only.

Conditions

As express conditions to obtaining an order granting the relief requested, Applicants agree that the proposed joint account would operate subject to the following procedures:

(a) A separate custodian cash account would be established into which each Portfolio would cause its uninvested net cash balances to be deposited daily.

(b) Cash in the joint account would be invested in repurchase agreements (with a duration not to exceed one business day) collateralized by suitable U.S. government obligations (i.e., obligations issued or guaranteed as to principal and interest by the U.S. government or by any of its agencies or instrumentalities, and satisfying the uniform standards set by the Portfolios for such investment).

(c) All investments held by the joint account would be valued on an amortized cost basis.

(d) Each Portfolio subject to an exemptive order permitting valuation on the basis of amortized cost, or relying upon Rule 2a–7 under the 1940 Act for that purpose, would use the average maturity of the joint account for the purpose of computing the Portfolio's average portfolio maturity with respect to the portion of its assets held in such account on that day.

(e) In order to assure that there would be no opportunity for one Portfolio to use any part of a balance of the joint account credited to another Portfolio, no Portfolio would be allowed to create a negative balance in the joint account for any reason, although it would be

permitted to draw down its entire balance at any time. Investment in the joint account would be optional for each Portfolio; no Portfolio would be obligated to invest in such account or maintain any minimum balance in the account. In addition, each Portfolio would retain the sole rights of ownership of any of its assets invested in the account, including interest payable on such assets. Each Portfolio's investment in the joint account would be documented daily on the books of each Portfolio as well as on the books of the Portfolio's custodian. Applicants believe that a Portfolio's investment in the account will not be subject to the claims of creditors, whether brought in bankruptcy, insolvency or other legal proceedings, of any other participant Portfolio in the account. Each Portfolio's liability on any repurchase agreement purchased by the account will be limited to its interest in such repurchase agreement.

(f) Each Portfolio would participate in the income earned or accrued in the joint account, including all instruments held by the joint account, on the basis of the percentage of the total amount in the account on any day represented by its share of the account.

(g) Prudential would administer the investment of the cash balance in and operation of the joint account as part of its duties under its existing or any future investment advisory contract with the Series Fund as it applies to each Portfolio and would not collect any additional fee for the management of the joint account. (Prudential will collect its fees based upon the assets of each separate Portfolio as provided in the investment advisory agreement.)

(h) The administration of the joint account would be within the fidelity bond coverage required by section 17(g) of the 1940 Act and Rule 17g–1 thereunder. The Board of Directors of the Series Fund will evaluate the account arrangements annually and will continue the account only if it determines that there is a reasonable likelihood that the account will benefit the Portfolios and their shareholders.

(i) The Series Fund and Prudential would enter into an agreement with each other to govern the operation of the proposed joint account in accordance with the foregoing princpals.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

FR Doc. 90–18711 Filed 8–8–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25127]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

August 3, 1990.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 27, 1990 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

CSW Credit, Inc., et al. (70–7218)

Central and South West Corporation ("CSW"), a registered holding company, and CSW Credit, Inc. ("Credit"), its nonutility subsidiary company, both located at 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas 75202, have filed a post-effective amendment to their application-declaration filed under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 45 and 50(a)(5) thereunder.

By orders dated July 19, 1985, July 31, 1986 and February 8, 1988 (HCAR Nos. 23767, 24157 and 24575, respectively), CSW was authorized to form Credit for the purpose of factoring the accounts receivable of CSW's operating subsidiaries and nonassociate utilities. Credit's ratio of debt to equity was to be maintained at approximately 80% debt to 20% equity; however, that requirement was changed by order dated December 27, 1989 (HCAR No. 25009) to a requirement that the equity ratio be no less than 15%. CSW and Credit are now seeking to change this requirement to a requirement that the equity ratio be no less than 5%.

Georgia Power Company (70–7559)

Georgia Power Company ("Georgia Power"), 333 Piedmont Avenue, NE., Atlanta, Georgia, a wholly owned electric public-utility subsidiary of The Southern Company, a registered holding company, has filed a post-effective amendment to its declaration filed under section 12(d) of the Act and Rule 44 thereunder.

By order dated December 20, 1988 (HCAR No. 24784), Georgia Power was authorized to sell to J. C. Penney Company, Inc. ("Penney") the distribution facilities at the J. C. Penney 155/12 kV substation ("Facilities") serving the J. C. Penney Catalog Distribution Center, located in Forest Park, Georgia, for an aggregate sales price of $1,224,044.57.

Georgia Power now proposes to sell, on or before June 30, 1991, to Penney the facilities for a sales price of approximately $1.155 million.

The Columbia Gas System, Inc., et al. (70–7688)

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, and certain of its subsidiaries, Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of New York, Inc., Columbia Gas of Maryland, Inc. and Commonwealth Gas Services, Inc., all located at 200 Civic Center Drive, Columbus, Ohio 43215; Columbia Gas Development Corporation, 5847 San Felipe, Houston, Texas 77057; Columbia Gas Development of Canada Ltd., 639—5th Avenue SW., Calgary, Alberta, Canada T2P OM9; Commonwealth Propane, Inc. and Columbia Propane Corporation, both located at 800 Moorehead Park Drive, Richmond, Virginia 23236; Columbia Gas System Service Corporation, Columbia LNG Corporation, Columbia Atlantic Trading Corporation, The Inland Gas Company, Inc. and Tristar Ventures Corporation, all located at 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas Transmission Corporation, Columbia Gulf Transmission Company and Commonwealth Gas Pipeline Corporation, all located at 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314; and Columbia Natural Resources, Inc. and Columbia Coal Gasification Corporation, both located at 900 Pennsylvania Avenue, Charleston, West Virginia 25302

(collectively, "Subsidiaries"), have filed a post-effective amendment to their application-declaration filed under sections 6(a), 6(b), 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43, 45 and 50(a)(5) thereunder.

By order dated December 18, 1989 (HCAR No. 25001), the Commission authorized inter-company financing for Columbia and the Subsidiaries through December 31, 1991, including among other things, Columbia Transmission's issuance and sale to Columbia of $400 million of first mortgage bonds in a combination of Series A and Series F bonds ("Bonds"), and short-term borrowings by Columbia under a $500 million credit agreement ("Credit Agreement"), dated October 15, 1988, with a syndicate of banks.

Columbia Transmission now proposes to increase the amount of Bonds it can issue to Columbia by $225 million, so that the aggregate Bonds issuable through December 31, 1991 would be $625 million. The additional Bonds would be issued with the same terms and conditions previously approved by the Commission.

Additionally, Columbia proposes to amend its Credit Agreement, with the termination date of October 5, 1993, to add a Money Market Option to the alternate pricing provisions. The proposed Money Market Option would be based on prevailing money market rates, whereby an auction would be conducted among the participating banks and the aggregate amount of the desired short-term borrowing would be allocated to those banks which submitted the lowest bids.

Columbia also requests approval to execute additional amendments to the Credit Agreement in the future in order to adopt one or more new options or optional formulas for determining interest rates. These options would be added to the Credit Agreement and utilized only to the extent that they would permit further reductions in Columbia's effective cost of borrowing.

Appalachian Power Company, et al. (70–7710—

Appalachian Power Company ("APCo"), an electric public-utility subsidiary of American Electric Power Company, Inc., a registered holding company, and Central Appalachian Coal Company ("Central"), a subsidiary of APCo, both located at 40 Franklin Road, SW., Roanoke, Virginia 24011, have filed a declaration under section 12(b) of the Act and Rule 45 thereunder.

APCo proposes to make a $800,000 cash capital contribution to Central. Such capital contribution will be used to increase the working capital of Central. As of February 28, 1990, the current liabilities of Central exceded its assets by $474,682.

Cedar Coal Company (70–7711)

Cedar Coal Company ("Cedar Coal"), 40 Franklin Road, SW., Roanoke, Virginia 24011, a subsidiary company of Appalachian Power Company, an electric public-utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed an application under section 9(a) and 10 of the Act.

Cedar Coal proposes to acquire for $6 million all the outstanding stock of Coal River Coals, Inc. "Coal River"), a West Virginia corporation, as part of a settlement agreement, dated July 2, 1990, in connection with a pending lawsuit by Coal River alleging certain claims against Cedar Coal, for trespass and negligent removal of coal from a parcel of property in Boone County, West Virginia.

Central and South West Corporation, et al. (70–7758)

Central and South West Corporation ("CSW"), a registered holding company, and CSW Energy, Inc. ("CSW Energy"), a wholly owned subsidiary of CSW, both located at 1616 Woodall Rodgers Freeway, P.O. Box 660164, Dallas, Texas, 75202, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and Rules 43, 45, 51, 86, 87, 90 and 91 thereunder.

CSW and CSW Energy request authority, through December 31, 1995, to spend up to $75 million: (1) To research, develop, consult with respect to, and agree to construct qualifying cogeneration facilities ("QFs") (within the meaning of the Public Utility Regulatory Policies Act of 1978 ("PURPA")), small power production facilities ("SPPFs") and independent power projects ("IPPs"); (2) to invest in QFs located in any geographic area and qualifying SPPFs (within the meaning of PURPA) located within the geographic service territory of CSW's operating utility companies; and (3) to invest in IPPs, provided that each such IPP shall meet the applicable integration standards under the Act. CSW proposes to finance such investments by CSW Energy through equity investments, loans and associated guarantees in an aggregate amount not to exceed $75 million.

CSW Energy also proposes to form and capitalize a new wholly owned subsidiary company ("Energy Sub") for the purpose of investing up to $25 million of the $75 million, through loans and associated guarantees, in a joint venture ("Joint Venture") to be formed with ARK Energy, Inc. ("ARK"), a nonassociate corporation. Energy Sub proposes to issue and sell, and CSW Energy to acquire, up to 1,000 shares of common stock, no par value, at a subscription price of $1.00 per share. The Joint Venture shall develop, construct, own and operate QFs and will, directly and indirectly, own and hold the securities of special purpose coporations and interests in special purpose partnerships each of which shall be formed for the purpose of acquiring from the Joint Venture all of its right, title and interest in and to a QF and developing, constructing, owning and operating such facility.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–18709 Filed 8–8–90; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Areas #2440 & #2441]

Mississippi; With a Contiguous County in Louisiana; Declaration of Disaster Loan Area

Clairborne, Forrest, and Perry Counties and the contiguous Counties of Copiah, Covington, George, Greene, Hinds, Jefferson, Jones, Lamar, Pearl River, Stone, Warren, and Wayne in the State of Mississippi and Tensas County in the State of Louisiana constitute a disaster area as a result of damages from tornadoes, severe storms, flooding, and flash flooding which occurred between May 12 and

May 31, 1990.

Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 1, 1990 and for economic injury applications until the close of business on May 1, 1991 at the address listed below: Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd, 14th Floor, Atlanta, GA 30308, or other locally announced locations.

The interest rates are:

For physical damage:	
Homeowners with credit available elsewhere	8.000%
Homeowners without credit available elsewhere	4.000%
Businesses with credit available elsewhere	8.000%

Businesses and non-profit organizations without credit available elsewhere	4.000%
Others (including non-profit organizations) with credit available elsewhere	9.250%
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000%

The numbers assigned to this disaster for physical damage are 244006 for the State of Mississippi and 244106 for the State of Louisiana. For economic injury the numbers are 710200 for the State of Mississippi and 710300 for the State of Louisiana.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Date: July 31, 1990.

Michael P. Forbes,

Acting Administrator.

[FR Doc. 90-18599 Filed 8-8-90; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2436]

Nebraska; Amendment #2; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with amendments dated July 25, 27, and 30, 1990, to the President's major disaster declaration of July 4, to include the Counties of Clay and Nance as a disaster area as a result of damages caused by severe storms, tornadoes, and flooding beginning June 10 and continuing through July 30, 1990.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Webster and York in the State of Nebraska may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

All other information remains the same, i.e., the termination date for filing applications for physical damage is September 4, 1990, and for economic injury until the close of business on April 4, 1991.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 1, 1990.

Michael E. Deegan,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 90-18600 Filed 8-8-90; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2439]

Wisconsin; Amendment #2; Delcaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with amendments dated July 17 and 25, 1990, to the President's major disaster declaration of July 13, to include the Counties of Dane, Green, Juneau, and Outagamie as a disaster area as a result of damages caused by severe storms, flooding, and tornadoes beginning June 22 and continuing through July 19, 1990.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Dodge, Jackson, Waupaca, and Wood in the State of Wisconsin may be filed until the specified date at the above location.

Any counties contiguous to the above-named primary countries and not listed herein have previously been named as contiguous or primary countries for the same occurrence.

All other information remains the same, i.e., the termination date for filing applications for phsyical damage is September 12, 1990, and for economic injury until the close of business on April 15, 1991.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 31, 1990.

Michael E. Deegan,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 90-18601 Filed 8-8-90; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review, Fort Lauderdale Executive Airport, Fort Lauderdale, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program that was submitted for Fort Lauderdale Executive Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) (hereinafter referred to as "the Act") and 14 CFR part 150 by the City of Fort Lauderdale, Florida. This program was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under 14 CFR part 150 for Fort Lauderdale Executive Airport were in compliance with applicable requirements effective October 28, 1988. The proposed noise compatibility program will be approved or disapproved on or before January 16, 1991.

EFFECTIVE DATE: The effective date of the start of FAA's review of the noise compatibility program is July 20, 1990. The public comment period ends September 18, 1990.

FOR FURTHER INFORMATION CONTACT: John W. Reynolds, Jr., Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827-5397, telephone (407) 648-6583. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for Fort Lauderdale Executive Airport which will be approved or disapproved on or before January 16, 1991. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has formally received the noise compatibility program for Fort Lauderdale Executive Airport, effective on July 20, 1990. It was requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before January 16, 1991.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of

reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, DC 20591.

Federal Aviation Administration, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397.

Mr. William H. Crouch, Airport Manager, Ft. Lauderdale Executive Airport, 1885 W. Commercial Boulevard, Suite 110, Ft. Lauderdale, FL 33309.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Orlando, Florida, July 20, 1990.

James E. Sheppard,

Manager, Orlando Airports District Office.

[FR Doc. 90–18726 Filed 8–8–90; 8:45 am]

BILLING CODE 4910–13–M

Approval of Noise Compatibility Program, Southwest Florida Regional Airport, Ft. Myers, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program submitted by the Lee County Port Authority, under the provisions of title I of the Aviation Safety and Noise Abatement Act (ASNA) of 1979 (Pub. L. 96–193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On November 17, 1989, the FAA determined that the noise exposure maps submitted by the Lee County Port Authority, under part 150, were in compliance with applicable requirements. On May 15, 1990, the Administrator approved the Southwest Florida Regional Airport Noise Compatability Program. All but 2 of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Southwest Florida Regional Airport Noise Compatibility Program is May 15, 1990.

FOR FURTHER INFORMATION CONTACT: Tommy Pickering, Airports Planning and Development Specialist, Federal Aviation Administration, Orlando Airports District Office, 9677 Tradeport Dr., Suite 130, Orlando, Florida 32827–5397, (407) 648–6583. Documents reflecting the FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for Southwest Florida Regional Airport, effective May 15, 1990.

Under section 104(a) the Aviation Safety and Noise Abatement Act (ASNA) of 1979, (hereinafter referred to as "the Act") an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatibile land uses within the area covered by the noise exposure maps. The Act requires such program to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against type or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government;

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other posers and responsibilities of the Administrator prescribed by law.

Specific limitation with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision of the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office, Orlando, Florida.

The Lee County Port Authority submitted to the FAA on February 16, 1989, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study. The Southwest Florida Regional Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on November 7, 1989, and Notice of these determinations was published in the **Federal Register.**

The Southwest Florida Regional Airport study contains a proposed Noise compatibility Program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to/or beyond the year 1992. It was requested that FAA evaluated and approve this material as a Noise Compatibility Program, as described in section 104(b) of the Act. the FAA began its review of the program on November 17, 1989, and was required by a provision of the Act to approve or disapprove the program within 180 days. Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained fourteen (14) proposed actions for noise mitigation on and off the airport. The FAA completed its review and

determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective May 15, 1990.

Outright approval was granted for 12 of the specific program elements. The approval action was for the following program elements:

Description	FAA action
Noise Abatement Program:	
1. Left Departure Turn from Runway 06.	Approved as a voluntary measure only.
2. Runway 24 Standard Instrument Departure (SID).	No action required.
3. Extension of Runway 6–24—1,100 Feet Northeastward and 1,100 Feet Southeastward.	Disapproved for Part 150 Purposes.
4. Preferred Use of Runway 06.	Approved as a voluntary measure only.
5. Continue Existing Noise Abatement Practices.	Approved as informal procedures.
a. Military Jet Training Restrictions	
b. Reduced Thrust Take Offs	
c. Thrust Cutbacks After Takeoff	
d. Minimum Approach Altitude (Keep em High Program)	
Land Use Management Program:	
1. Noise Overlay Zoning	Approved.
2. Conventional Compatible Land Use Zoning.	Approved.
3. Mobile Home Restrictions.	Approved.
4. Required Noise (Avigation) Easements.	Approved.
5. Comprehensive Planning.	Approved.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on May 15, 1990. The record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Lee County Port Authority.

Issued in Orlando, Florida on July 25, 1990.

James E. Sheppard,

Manager, Orlando Airports District Office.

[FR Doc. 90–18727 Filed 8–8–90; 8:45 am]

BILLING CODE 4910–13–M

Noise Exposure Map; Receipt of Noise Compatibility Program and Request for Review; Lawton Municipal Airport, Lawton, OK

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Lawton Metropolitan Area Airport Authority for Lawton Municipal Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Lawton Municipal Airport under part 150 in conjunction with the noise exposure maps and that this program will be approved or disapproved on or before January 28, 1991.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and the start of its review of the associated noise compatibility program is August 1, 1990. The public comment period ends September 30, 1990.

FOR FURTHER INFORMATION CONTACT: Dean A. McMath, Department of Transportation, Federal Aviation Administration, Forth Worth, Texas, 76193–0612, (817) 624–5594. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Lawton Municipal Airport are in compliance with applicable requirements of Part 150, effective August 1, 1990. Further, the FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before January 28, 1991. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The Lawton Metropolitan Area Airport Authority submitted to the FAA on April 25, 1990 noise exposure maps, descriptions and other documentation which were produced during the development of the FAR Part 150 Noise Exposure and Land Use Compatibility Program. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the Lawton Metropolitan Area Airport Authority. The specific maps under consideration are Figure 16, Existing Noise Exposure Map, with Run-Ups, 1987 (page 44) and Figure 20. Future Noise Exposure Map 1994 (page 70) in the submission.

The FAA has determined that these maps for Lawton Municipal Airport are in compliance with applicable requirements. This determination is effective on August 1, 1990. The FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information, or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities

are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Lawton Municipal Airport, also effective on August 1, 1990. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before January 28, 1991.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Airports Division, ASW–600, Fort Worth, Texas 76193–0600.

Lawton Municipal Airport, Airport Manager's Office, Lawton, Oklahoma 73502.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Fort Worth, Texas, August 1, 1990.

John M. Dempsey,

Manager, Airports Division.

[FR Doc. 90–18728 Filed 8–8–90; 8:45 am]

BILLING CODE 4910–13–M

Environmental Document and Scoping Meeting on Lake Calumet Site for Supplemental Regional Air Carrier Airport Study for the Chicago Region, Northeast Illinois and Northwest Indiana

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice to hold a public scoping meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared and considered as part of the site selection and master planning of a commercial air carrier airport in the Northeastern Illinois-Northwestern Indiana region. To ensure that all significant issues related to the proposed action are identified, public scoping meetings will be held on Tuesday, September 18, 1990 pertaining to site selection for this airport.

FOR FURTHER INFORMATION CONTACT: Jerry R. Mork, Community Planner, of the Chicago Airports District Office of the FAA at (312) 694–7522. Additional information is available from Donald Corinna, Program Manager for the Illinois-Indiana Regional Airport, suite 111, 4440 West Lincoln Highway, Matteson, Illinois 60443, at (708) 503–0180.

SUPPLEMENTARY INFORMATION: The FAA, in cooperation with the Division of Aeronautics, Illinois Department of Transportation, the Division of Aeronautics, Indiana Department of Transportation and the Department of Aviation, City of Chicago, will prepare an Environmental Impact Statement as part of the site selection process. Should a "build" alternative be selected in the site selection process, another scoping meeting will be held at that time to address the significant environmental impacts of building an airport at the selected site. As part of the master planning process, should a "build" alternative be selected, a draft environmental impact statement will be prepared and circulated after the master plan scoping meetings. A scoping session was held on May 16, 1990, which covered the following four sites: Bi-State, the existing Gary Regional Airport, Kankakee, and Peotone.

The development of a new airport could include but not be limited to:

1. Land acquisition, including relocation assistance.
2. Construction of multiple runways and taxiways.
3. Construction of an airport terminal and related facilities.
4. Construction of access roads and improvements to existing highway networks.
5. Construction of commuter rail lines to the new airport. A more detailed list of development activities will be presented at the master plan scoping meetings.

Comments and suggestions are invited from Federal, State and local agencies, and other interested parties to ensure that the full range of issues related to this proposed project are addressed and all significant issues relative to site selection are identified at this time. Copies of materials to be evaluated can be obtained from the office of the Program Manager for the Illinois-Indiana Regional Airport contact listed above. Comments and suggestions may be mailed to the same address.

PUBLIC SCOPING MEETINGS: To facilitate receipt of comments at this stage of the process, two site selection public scoping meetings will be held on Tuesday, September 18, 1990. The first meeting will be held at 10 a.m. CDT for Federal and State agencies, at the offices of the Chicago Area Transportation Study, 300 West Adams Street, Chicago, Illinois 60606; and the second meeting will be held at 6 p.m. CDT for local agencies and other interested parties, located at Mann Park Fieldhouse, 130th and Carandolet Streets, Chicago (Hegewisch), Illinois 60633.

Issued in Des Plaines, Illinois, on July 30, 1990.

Louis H. Yates,

Manager, Chicago Airports District Office, FAA Great Lakes Region.

[FR Doc. 90–18729 Filed 8–8–90; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Hennepin County, MN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Hennepin County, Minnesota.

FOR FURTHER INFORMATION CONTACT:

Stephen Bahler, Area Engineer, Federal Highway Administration, Suite 490, Metro Square Building, St. Paul, Minnesota, 55101, Telephone: (612) 290–3259,

or

Steve Hay, Project Manager, Minnesota Department of Transportation, 2055 North Lilac Drive, Golden Valley, Minnesota 55422, Telephone: (612) 593–8535.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Minnesota Department of Transportation (Mn/DOT), will prepare an Environmental Impact Statement (EIS) on a proposal to improve Trunk Highway 100 between Glenwood Avenue and Brooklyn Boulevard in Hennepin County, Minnesota. The length of the proposed project is approximately 5.7 miles.

Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. Included in this proposal are the removal of signalized intersections to be replaced by interchanges at 36th Avenue North, County State Aid Highway 81 (CSAH 81), and France Avenue North. Also included in this proposal are the modification of existing interchanges at Trunk Highway 55 (TH 55), Duluth Street, and 42nd Avenue North. Existing overpass and underpass structures may also need to be replaced or modified. Alternatives under consideration include (1) Taking no action; (2) widening the existing four lane highway to a six lane freeway; and (3) constructing a four lane freeway.

A Scoping Document describing the proposed action and soliciting comments is being prepared to be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. A public meeting will be held in August or September, 1990. In addition, a public hearing will be held. Public notice will be given of the time and place of the hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Planning and Construction. The regulations implementing executive order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program)

Alan Friesen,

District Engineer, St. Paul, Minnesota.

[FR Doc. 90–18662 Filed 8–8–90; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

[BS–AP–NO. 2976]

Public Hearing; CSX Transportation et al.

The CSX Transportation and Ann Arbor Railroad Company have jointly petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance and removal of Hallett Interlocking in Toledo, Ohio. This proceeding is identified as FRA Block Signal Application Number 2976.

The FRA has issued a public notice seeking comments of interested parties and conducted a field investigation in this matter. After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on September 11, 1990, in room 318 of the Federal Building at 234 Summit Street, in Toledo, Ohio.

The hearing will be an informal one and will be conducted in accordance with rule 25 of the FRA Rules of Practice (49 CFR part 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC on July 31, 1990.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 90–18634 Filed 8–8–90; 8:45 am]

BILLING CODE 4910–06–M

[BS–AP–No. 2964]

Public Hearing, Illinois Central Railroad

The Illinois Central Railroad has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance and removal of the automatic train stop system between Champaign and Branch Junction, Illinois. This proceeding is identified as FRA Block Signal Application Number 2964.

The FRA has issued a public notice seeking comments of interested parties and conducted a field investigation in this matter. After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on September 13, 1990, in courtroom 2541 of the Dirksen Federal Building at 219 South Dearborn Street in Chicago, Illinois.

The hearing will be an informal one and will be conducted in accordance with rule 25 of the FRA Rules of Practice (49 CFR part 211.25), by a representative designated by the FRA.

The hearing will be nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC, on July 31, 1990.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 90–18635 Filed 8–8–90; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

Grant Availability to the States for Projects Implementing School Bus Safety

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of a grant program.

SUMMARY: NHTSA intends to make funds available during fiscal year 1991 to assist the States in implementing school bus safety measures. Funding will be set aside from the "Section 402" program, and each State will be eligible for a proportionate share of that funding. To participate in this grant program, a State must submit an application to NHTSA which proposes to expend the

funds on one or moe of the measures designated by NHTSA to be "effective" or "most effective" in improving school bus safety. This notice solicits applications from the States that are interested in developing and implementing projects under this program.

DATES: Applications must be received by November 1, 1990.

ADDRESSES: A State must submit its application to the NHTSA Regional Administrator serving the Region in which the submitting State is located. All applications submitted should be labeled "School Bus Safety Implementation Project." Interested States are advised that no separate application package exists beyond the contents of this announcement.

FOR FURTHER INFORMATION CONTACT: States should direct all questions concerning the grant program and applications to the NHTSA Regional Administrator having responsibilities for the applicant State. More general inquiries on school bus safety may be directed to Dr. Frances Baker Dickman, Tariff Safety Programs (NTS–23), National Highway Traffic Safety Administration, room 5119, 400 Seventh Street, SW., Washington DC 20590. Telephone: (202) 366–2731.

SUPPLEMENTARY INFORMATION:

Background

Section 204 of the Highway Safety Act of 1987 (Pub. L. 100–17, title II) authorized the National Academy of Sciences (NAS) to conduct a comprehensive study of school bus safety. The NAS issued its report, entitled "Improving School Bus Safety" (Special Report No. 222), in May 1989. This report confirmed the high degree of safety provided by America's school bus fleet, especially those buses built after several Federal motor vehicle safety-standards took effect on April 1, 1977. The report also listed those safety measures most effective in protecting the safety of school children while boarding, leaving, and riding in school buses.

As required by the Act, NHTSA reviewed the NAS study and published a notice in the **Federal Register** (54 FR 29629, July 13, 1989, Notice entitled "School Safety Measures," issued July 7, 1989) listing the measures determined to be the most effective in protecting the safety of school-bused children. The list was divided into two categories: (1) Those measures considered to be "most effective," and (2) those measures considered to be "effective."

Section 204 of the Act also permits NHTSA to set aside an amount not to exceed $5,000,000 out of monies available under 23 U.S.C. 402 in each of Fiscal Years 1990 and 1991 for the purpose of making grants to the State to implement school bus safety measures listed in the earlier notice. All States applied for and were granted funds for this purpose in FY 1990. This notice announces the agency's intention to continue such a grant program for all State in FY 1991. The set-aside will be reflected in the agency's apportionment of section 402 funds and distribution of obligation limitations, which are normally issued at the start of the new fiscal year (October 1, 1990). In determining the exact amount of this set-aside, NHTSA will take into account the total level of section 402 funding made available by Congress for FY 1991.

As was the case last year, the agency notes its reservations about the establishment of such programs. As a general rule, NHTSA opposes efforts to "earmark" or "set-aside" funds from the section 402 program. Those practices interfere with State decisions on how to use those funds most effectively (i.e., to obtain the greatest possible improvement in highway safety). While this set-aside program should help to improve school bus safety, it may divert funding away from other highway safety projects which have greater potential safety benefits.

But NHTSA also shares the special concerns of the Congress and others in enhancing safe transportation for school children, even though the current safety record is already quite positive. Recent public focus on school bus issues makes this an opportune time for added emphasis to these safety programs. Accordingly, in line with the 1987 Act and the 1989 NAS report, NHTSA intends to continue this short-term set-aside program. However, the agency will continue to oppose the enactment of new set-asides or earmarks in the section 402 program.

Objectives

The NAS report made a number of recommendations on ways to enhance and improve the safety of school children while boarding, leaving and riding in school buses and walking to and from school. NHTSA has evaluated these safety measures and agrees that all have the potential for reducing the risk of death and injury to school children. The agency's evaluation appears in the **Federal Register** Notice listing the most effective measures (54 FR 29629, July 13, 1989). In addition to those measurs identified in the NAS report, NHTSA included riding bicycles to and from school as a component of pedestrian safety education.

This grant program emphasizes those measures which NHTSA has determined to be the "most effective" in protecting the safety of school children, but retains sufficient flexibility for the particular needs of each State. All States are given an equal opportunity to participate in this grant program. States are encouraged either to continue funding those program activities that they initiated last year or to implement initiative implying safety counter measures from the "most effective" or "effective" listing which best address their problems.

The NAS recommended that school buses manufactured prior to the implementation of the April 1, 1977, school bus safety standards be replaced as rapidly as possible with those manufactured after that date. While NHTSA agrees that the replacement of these vehicles is a highly effective means of reducing risks to bus riders, it is a longstanding policy of the agency not to allow the use of section 402 funds to purchase school buses. This policy is consistent with the "seed money" concept of the Highway Safety Program and with the agency's policy directive on allowable costs, NHTSA Order 462–13A. Accordingly, funds under this grant program may not be used for bus purchases.

For the purpose of assisting the States in deciding which pupil transportation safety measures they wish to propose as grant projects, the measures have been organized into three basic categories. These are Safety Education, Program Administration, and Safety Equipment Acquisition. NHTSA guidance and training materials for program development purposes are available through the Regional Administrators.

Most Effective Measures

The following is a listing of eligible "most effective" safety counter measure projects in each of these catetories:

Safety Education

(1) *School bus stop and boarding safety:* Safety education initiatives that emphasize the importance of: (1) Safe walking practices to and from bus stops; (2) how and where to wait safely for the bus; (3) how to board and leave the bus safely (including the emergency evacuation of buses).

(2) *Pedestrian safety education:* Programs that address safe walking and riding bicycles to and from school.

(3) *School bus driver training:* Programs that monitor and upgrade bus driver skills and qualifications, including training and licensing requirements. Such programs should

also address the responsibilities of the driver for the safety of children inside the bus and in loading zones.

Program Administration

(4) *School bus routes and stops:* Programs that regularly evaluate school bus routes and stops to ensure that they represent the safest, most convenient and efficient transportation for children traveling to and from school, including programs to develop loading and unloading plans for all vehicles at school locations.

(5) *Standees:* Programs to evaluate current bus routing to eliminate standees from school buses.

(6) *School bus stopping procedures:* Programs to review school bus stopping procedures and related traffic laws for effectiveness and consistency with other jurisdictions. Includes development of public information and enforcement campaigns to ensure that motorists fully understand these procedures and laws.

Safety Equipment Acquisition

(7) *Stop signal arms:* Programs to require installation of stop signal arms on new buses and retrofit them on older buses, because of their ability to alert other motorists to the presence of the bus. Also, programs to require their use.

(8) *Outside crossview and rearview mirrors:* Programs to require installation of additional cross-view mirrors on new buses, and to retrofit them on older buses, consistent with Federal Motor Vehicle Safety Standard 111, which allow the driver to see the area immediately in front of and along both sides of the bus.

Effective Measures

The agency also believes that certain measures are "effective" in protecting the safety of school children while riding in buses. If a State elects to use its grant funds for one or more of these measures, it will be expected to explain why the selection of an "effective" measure is not more appropriate than the choice of any of the "most effective" measures. The following is a listing of eligible "effective" measures. The following is a listing of eligible "effective" safety measure projects by basic category:

Safety Education

(1) *Emergency evacuation drills:* Programs that establish or improve emergency school bus evacuation drills within school districts or States.

Program Administration

(2) *School bus crash data:* Programs that upgrade and standardize school crash data. These data would be used to analyze why, where and how children are being injured and to evaluate the effectiveness of school bus safety programs and devices.

Safety Equipment Acquisition

(3) *Reflective markings:* Programs that involve the installation of reflective materials to make buses more visible and reduce the risk of nighttime crashes.

(4) *Other safety features and equipment:* Programs that upgrade State-level requirements for school bus exits, flammability of interior materials and fuel system integrity. NHTSA has commenced rulemaking on these issues to incorporate further safety improvements in the mandatory Federal standards for new vehicles. However, in the interim, States may wish to revise their own specifications for the purchase of new buses, or the overhaul of vehicles already in the fleet.

Funding

The application for funding assistance should address what is proposed and can be accomplished during this period. A State may receive in FY 1991 an amount not to exceed that percentage of the set-aside which is equal to its allotted share of FY 91 Highway Safety Program funds under 23 U.S.C. 402. A State may apply for a grant equal to the full amount of its share or some lesser amount. NHTSA intends to make decisions on all grant applications within 30 days after the application deadline. After that time, all monies which have not been obligated under grants approved by NHTSA will be released for general section 402 purposes and distributed to all States in accordance with the apportionment formula under 23 U.S.C. 402.

Eligibility

Consistent with 23 U.S.C. 402, only the Governor's Representative for Highway Safety may make application for grants under this program. This would apply even though the grant funds may ultimately be intended for use by a municipality or private sector organization.

Application Procedure

Each State must submit one original and two copies of its application to the NHTSA Regional Administrator having responsibility for such State. All applications submitted must be labeled "School Bus Safety Implementation Project." Only complete applications received on or before November 1, 1990, shall be considered. States which do not make an application for these grant funds on or before November 1, 1990, shall be deemed to have decided not to participate in this program.

Application Contents

The application package should be submitted as a part of the State's Highway Safety Plan or as an addendum to such Plan. Applications shall include a project narrative statement which addresses the following items:

(1) A discussion of school bus safety in the State in relation to the "most effective" measures and a rationale for the State's selection of its proposed projects.

(2) A description of the proposed projects for improving school bus safety.

(3) The plan of action for conducting the proposed projects, including target dates and methods for assessing the accomplishments of the projects.

(4) The anticipated results and benefits to be derived.

Evaluation Criteria and Review Process

Each application will be reviewed to assure that it contains all of the required information to determine that the project or projects adequately cover one or more of the "most effective" or "effective" measures. If an "effective" measure category is selected, the application must include a discussion of why the "effective" measure is more appropriate than any of the "most effective" measures.

All applications will be judged using the following criteria listed in descending order of importance:

(1) The applicant's careful consideration of school bus safety problems in relation to the measures determined to be "most effective" in improving school bus safety.

(2) The technical merit of the proposed grant project effort, including the feasibility of the approach, plan of action and anticipated results.

(3) The adequacy of the resources for accomplishing the proposed grant project effort.

Final Report

Each State receiving a grant under this program shall submit a final report which includes a complete description of the projects and the results. Such final report may be included as part of the State's final report on section 402 projects for FY 1991.

Terms and Conditions of the Award

Prior to award, the State must comply with the certification requirements of 49 CFR part 29, "Government-wide Requirements for Drug-Free Workplace," if the State has not already made such a certification for the year of the award. Any grant awarded as a result of this notice shall be subject to the applicable requirements of 49 CFR

part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." Unless otherwise stated, all procedures and requirements of the section 402 program are applicable.

Jeffrey R. Miller,

Deputy Administrator.

[FR Doc. 90-18636 Filed 8-6-90; 9:12 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

August 3, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: IRS Form 8819.
Type of Review: New collection.
Title: Dollar Election Under section 985.
Description: Form 8819 is filed by U.S. or foreign businesses to elect the U.S. dollar as its functional currency or as the functional currency of its controlled entities. IRS uses Form 8819 to determine if the election is properly made.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents/ Recordkeepers: 1,500.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—2 hours, 52 minutes.
Learning about the law or the form—24 minutes.
Preparing, assembling, and sending the form to IRS—28 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 5,595 hours.

OMB Number: 1545-0021.
Form Number: IRS Form 709-A.
Type of Review: Extension.
Title: United States Short Form Gift Tax Return.
Description: Form 709-A is used to report gifts that would be taxable except that they are "split" between husband and wife. The form is a simplified version of Form 709, designed to relieve these gift/ taxpayers of the burden of filing Form 709. IRS uses the information to insure that "gift-splitting" was properly elected.
Respondents: Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 40,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—13 minutes.
Learning about the law or the form—11 minutes.
Preparing the form—14 minutes.
Copying, assembling, and sending the form to IRS—20 minutes.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 38,800 hours.

OMB Number: 1545-0877.
Form Number: IRS Form 1099-A.
Type of Review: Extension.
Title: Acquisition or Abandonment of Secured Property.
Description: Form 1099-A is used by lenders to report foreclosures and abandonments of property that is security for a loan.
Respondents: Businesses or other for-profit, Federal agencies or employees.
Estimated Number of Respondents: 15,000.
Estimated Burden Hours Per Respondent: 10 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 64,600 hours.

OMB Number: 1545-0894.
Form Number: IRS Publication 1237.
Type of Review: Extension.
Title: IRS Consumer Films—Publication 1237 (formerly Publication 1030).
Description: This brochure describes the various informational and educational films and videotapes that are available for loan without charge to interested organizations. It also contains an order form for these groups to request the materials from their local IRS offices.
Respondents: Individuals or households, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents: 45,000.
Estimated Burden Hours Per Respondent: 3 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 2,250 hours.

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90-18598 Filed 8-8-90; 8:45 am]

BILLING CODE 4830-01-M

Customs Service

[T.D. 90-65]

Revocation of Customs Broker's Permit No. 14032 Issued to Milton Snedeker Corporation

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Notice is hereby given that the Customs broker permit number 14032, issued to the Milton Snedeker Corporation, to conduct Customs business in the Norfolk, Virginia District, has been revoked by operation of law pursuant to section 641 (c)(3), Tariff Act of 1930, as amended (19 U.S.C. 1641 (c)(3)), for failure to employ, for a continuous period of 180 days at least one validly licensed individual to exercise responsible supervision and control over its Customs business in that district. Such revocation was effective the close of business on June 27, 1990.

Dated: August 1, 1990.

William Luebkert,

Acting Director, Office of Trade Operations.

[FR Doc. 90-18732 Filed 8-8-90; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Court Arts of Indonesia" (see list [1]), imported from

[1] A copy of this list may be obtained by contacting Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202/619-6975, and the address is U.S. Information Agency, 301 Fourth Street, SW., Room 700, Washington, DC 20547.

abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at The Asia Society, New York, beginning on or about September 17, 1990, to on or about December 16, 1990; Dallas Museum of Art, Texas, beginning on or about February 10, 1991, to on or about April 7, 1991; Arthur M. Sackler Gallery, Washington, DC, beginning on or about May 19, 1991, to on or about September 2, 1991; and Natural History Museum of Los Angeles County, California, beginning on or about October 19, 1991, to on or about January 5, 1992, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: August 6, 1990.

Alberto H. Mora,

General Counsel.

[FR Doc. 90-18707 Filed 8-8-90; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 154
Thursday, August 9, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, August 14, 1990, 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and title 26, U.S.C.
Matters concerning participation in civil actions proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, August16, 1990 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Correction and Approval of Minutes
Advisory Opinion 1990–10 Carolyn F. Bigda on behalf of the Texas Air Corp.
Advisory Opinion 1990–13 Edward Copeland on behalf of the Socialist Workers Party National Campaign Committee
Domestic Subsidiaries of Foreign Nationals—NPRM
Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 376–3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 90–18869 Filed 8–7–90; 3:05 pm]

BILLING CODE 6715–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of August 6, 1990.

A closed meeting will be held on Tuesday, August 7, 1990, at 2:00 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary to the Commissions, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Lochner, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, August 7, 1990, at 2:00 p.m., will be:

Institution of injunctive actions.
Formal orders of investigation.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Steve Young at (202) 272–2300.

Dated: August 6, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90–18845 Filed 8–7–90; 8:45 am]

BILLING CODE 8010–01–M

federal register

Thursday
August 9, 1990

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Single Family Property Disposition; Demonstration Program for Sale of Properties to Nonprofits and Government Entities; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-90-3102; FR-2835-N-01]

Single Family Property Disposition; Demonstration Program for Sale of Properties to Nonprofits and Governmental Entities

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of demonstration program.

SUMMARY: This Notice announces a demonstration program for the sale of HUD-acquired single family properties to private nonprofit organizations and governmental entities for re-sale to low and moderate income families for the purpose of stabilizing, preserving, and improving neighborhoods and promoting homeownership for low and moderate income families.

DATES: *Comment Due Date:* Comments are due by September 10, 1990. The Department anticipates that the demonstration will begin on October 9, 1990, but will publish a Notice announcing the effective date and any revisions to the program as a result of the public comments, as well as information regarding the submission of proposals.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m.–5:30 p.m. Eastern Time) at the above address. As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 708–4337. (This is not a toll-free number.) Only public comments of six or fewer total pages will be accepted via FAX transmittal. This limitation is necessary to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk ((202) 708–2084).

FOR FURTHER INFORMATION CONTACT: Jacqueline B. Campbell, Single Family Property Disposition Division, Room 9172, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; (202) 708–0740 or, for hearing and speech-impaired, (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in this Notice have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. Pending approval by OMB and the assignment of an OMB control number, no person may be subjected to a penalty for failure to comply with these information collection requirements.

Public reporting burden for the collection of information requirements contained in this rule is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided in this document under the heading, Other Matters. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be sent by September 10, 1990, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

I. Background

Title II of the National Housing Act (the Act) authorizes HUD to insure mortgages for single family residences through the Federal Housing Administration (FHA) single family mortgage insurance program. The mortgages are insured through revolving funds, which provide the money to pay insurance claims to lenders on defaulted mortgage loans. The funds are replenished by mortgage insurance premiums, income from the investment of moneys held by the funds, and proceeds from the sales of homes that HUD acquires, either by foreclosures or voluntary transfers, following default on the mortgages.

The disposition program for single family properties acquired by HUD in exchange for payment of an insurance claim is authorized by section 204(g) of the Act. Generally, the objective of the property disposition program is to reduce the inventory of HUD-acquired properties in a manner that ensures maximum net return to the mortgage insurance funds but is consistent with the need to preserve and maintain residential areas and communities. This objective, combined with the Secretary's priority of expanding homeownership and affordable housing opportunities and the national housing goal of a decent home and a suitable living environment for every American family, as set out in section 2 of the Housing Act of 1949, has prompted the Department to announce this demonstration program. The demonstration will explore a method of reducing the inventory of HUD-acquired properties, while stabilizing, preserving, and improving neighborhoods and providing a source of affordable homeownership opportunities for low- and moderate-income buyers.

Under the demonstration, HUD field offices will review proposals from State and local governmental entities and private nonprofit organizations to purchase properties, on an all-cash basis, from the HUD-acquired inventory for ultimate resale to low- and moderate-income families. HUD anticipates that this program may become a permanent part of the single family property disposition program. HUD will evaluate the results of the demonstration and, if the program is satisfactory in terms of accomplishing its purpose, may issue a final rule for the program.

II. Eligible Properties

The main purpose of this demonstration program is to stabilize, preserve, and improve neighborhoods where there are a number of vacant HUD-acquired properties. Most of these neighborhoods are in communities that have experienced economic downturns, resulting in a high number of foreclosures. Typically, there may be significant concentrations of vacant HUD-acquired properties in a neighborhood, which further contributes to the decline of the area. The focus of proposals submitted under the demonstration program should be on seeking to curtail this decline.

The number of properties to be sold under the demonstration will be limited to 1,500 properties nationwide. Although there is no minimum number of properties that must be bought by a

housing agency or nonprofit organization, the Department expects buyers to offer to purchase a sufficient number of properties in an area to achieve the objective of stabilizing, preserving, and improving the neighborhood.

To be eligible for purchase under the demonstration, properties must be located in a neighborhood with certain characteristics. HUD recognizes, however, that communities are unique, and that specific criteria cannot be applied to all areas nationwide. Therefore, proposals to purchase properties must show, through local experience and data, that the properties are located in a neighborhood with the following characteristics:

(1) A high concentration of HUD-acquired properties;

(2) A vacancy period that is longer than the average vacancy period for the area;

(3) An economically declining area, marked by severe, long-term unemployment; and

(4) A soft real estate market, with declining prices and values of residential property in the target neighborhood.

There is no minimum time that a property must have been in HUD's inventory before being eligible for sale through this demonstration. It is sufficient that the property is located in a neighborhood with the characteristics described above. For example, a property may be available for sale under the demonstration immediately upon coming into HUD's inventory because of its location in a target neighborhood.

Properties built before 1978 are subject to section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4186), as implemented by HUD at 24 CFR part 35 and 24 CFR 200.815. Properties listed on the National Register of Historic Places or located in a Historic District will be sold with appropriate deed restrictions. Properties located within a runway clear zone will be available for sale, but purchasers will be required to sign disclaimers that they were given notice of the location. HUD will identify those properties that are located in areas with special flood hazards. Properties will be subject to review under 24 CFR part 50, appropriate.

III. Purchase Price

In proposals to buy groups of properties, purchasers may make certain adjustments to the estimated fair market value of the properties.

The first adjustment that may be made is a deduction of 9 percent, which represents the real estate sales commission and estimated closing costs normally paid by HUD when a property is sold. In sales under the demonstration program, HUD will not pay these costs, so the amount attributable to those items may be deducted from the estimated fair market value.

Another adjustment may be made based on the savings to HUD of the daily costs of carrying the property in its inventory. These holding costs include the direct out-of-pocket expenses HUD would incur on a property, such as for property preservation, taxes and management fees, as well as the amount of interest loss to the mortgage insurance fund as a result of sales proceeds not being deposited in the Treasury, were the property to remain in HUD's inventory. The average per-day holding cost, which is currently $18.25, may be multiplied by the number of days the property is likely to remain in HUD's inventory, depending on the area in which the property is located.

Finally, an adjustment may be made representing the estimated future decline of the property's value due to vandalism, the general deterioration of the property, and the impact on the property values in the neighborhood because of the concentration of HUD-acquired properties.

Prospective purchasers are encouraged to base their offers to buy properties on the formula described above. The Department will review and discuss promising proposals with prospective purchasers, and may ask them to revise their proposals to achieve demonstration goals. Although the demonstration program is not a competitive program, there is a selection process. Proposals will be judged on whether they are responsive to the objectives of the program, particularly the impact the proposal will have on stabilizing and preserving identifiable neighborhoods and geographic sections of a community.

IV. Eligible Buyers

Eligible buyers are State and local governmental entities and private nonprofit organizations. None of the earnings of a private nonprofit organization's operations may insure to the benefit of any member, founder, contributor, or individual of the organization. In addition, the organization must have a voluntary board and approval of nonprofit status under section 501(c)(3) of the Internal Revenue Code. Nonprofit organizations will be asked to provide the most recent financial statement of the organizations.

All prospective purchasers must demonstrate not only an interest in furthering the underlying purpose of this demonstration, but also a past history of providing housing for the target group of ultimate buyers. Purchasers must have the financial resources available to complete the proposed purchase and rehabilitation of the property, as well as the capacity to provide, or assist in locating, a source of financing for the ultimate low to moderate income buyers, preferably at below-market terms.

The purchasers must also commit to providing all necessary rehabilitation to the properties. The rehabilitation must be completed within a reasonable time after closing the purchase.

Proposals meeting the eligibility requirements will be accepted on a first-come, first-served basis. In the event there are more proposals than can be accepted, HUD will select the proposals that will have the greatest neighorhood impact, will target sales to families with less than median income, and will result in the least cost to the insurance fund.

V. Ultimate Owners/Occupants

A purchaser must certify that the properties it proposes to purchase under this demonstration will ultimately be sold to low- or moderate-income families who will occupy the properties. For purposes of this demonstration program, low- and moderate-income buyers are families or individuals whose incomes do not exceed the higher of: (1) The median family income for the area, or (2) the national median income. (HUD may grant an exception of up to 115 percent of median income where justified by the purchaser or the field office.)

VI. Proposals

Prospective purchasers may obtain a listing of available properties in inventory from HUD field offices. The listing will include addresses and list prices. Proposals to purchase properties must contain the following information:

1. *Location and number of properties.*—The proposal must demonstrate that the properties are located in a neighborhood that meets the criteria for target neighborhoods, as described in section II of this Notice, and that the number of properties proposed to be purchased is sufficient to make an impact on the condition of the neighborhood.

2. *Purchaser.*—The proposal must demonstrate that the purchaser meets the requirements for eligible purchasers, as described in section IV of this Notice. Proposals from nonprofit organizations must contain proof of nonprofit status and a current financial statement, as well as background information on the

experience of the organization in providing housing for low- and moderate-income families. Proposals must also set forth the method of financing the purchase and rehabilitation of the properties.

3. *Ultimate purchasers.*—The proposal must state the plan for ultimate resale of the properties to low- and moderate-income buyers and the schedule for implementing the plan. The plan should include, to the extent known, the ultimate purchasers to be targeted, the outreach program to be used, and any assistance in financing for the ultimate buyers, preferably at below-market terms. The outreach program should include the purchaser's plan to conduct an affirmative marketing program, including special outreach activities, to attract persons least likely to apply to purchase a unit because of their race, color, religion, sex, and national origin.

Each proposal must contain a certification that the purchaser will not discriminate because of race, color, religion, sex, handicap, familial status, or national origin in the sale, advertising, or any financing of properties purchased under the proposal, in compliance with the Fair Housing Act, as implemented at 24 CFR part 100.

VII. Other Matters

The collection of information requirements for this demonstration were submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Information on these requirements is provided as follows:

Description	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hours
Proposal	100	1	1	50	5,000

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

The General Counsel, as the designated official under Executive Order 12606, *The Family*, has determined that this demonstration program may have a potential significant impact on the formation, maintenance, and general well-being of families to the extent that the program will provide expanded homeownership and affordable housing opportunities for low- to moderate-income families. These opportunities will enable families to remain together and to live in decent, safe, and sanitary housing.

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, that the policies contained in this Notice will not have federalism implications and, thus, are not subject to review under that Order. The demonstration program will reduce the inventory of HUD-acquired properties while preserving and maintaining residential areas and communities, as well as expanding homeownership and affordable housing opportunities to low- and moderate-income families.

Dated: August 1, 1990.

C. Austin Fitts,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 90-18592 Filed 8-8-90; 8:45 am]

BILLING CODE 4210-27-M

federal register

Thursday
August 9, 1990

Part III

The Library of Congress

36 CFR Part 704

National Film Registry; Selection, Public Participation, Labeling and Use of Seals for Films; Final Regulations

THE LIBRARY OF CONGRESS

36 CFR Part 704

National Film Preservation Board Final Regulations Establishing Criteria for the Selection of Films and Procedures for the Public Participation in the Selection of Films for the National Film Registry

AGENCY: Library of Congress, National Film Preservation Board.

ACTION: Final regulations.

SUMMARY: The Librarian of Congress is adopting final regulations establishing criteria for the selection of films in the National Film Registry and procedures to allow the general public to make recommendations to the Board regarding the inclusion of films in the National Film Registry.

EFFECTIVE: September 24, 1990.

FOR FURTHER INFORMATION CONTACT: Eric Schwartz, Counsel, the National Film Preservation Board, Library of Congress, Washington, DC 20540. Telephone: (202) 707–8350.

SUPPLEMENTARY INFORMATION: On February 13, 1989 (54 FR 6553) the Librarian of Congress published a notice of proposed rulemaking regarding the adoption of "criteria for guidelines" for the selection of films in the National Film Registry, and procedures for allowing the general public to make recommendations to the Board in accordance with section 3 of Public Law 100–446, the National Film Preservation Act of 1988, 2 U.S.C. 178b.

The Librarian proposed broad criteria for the selection of films in order to allow as many films as possible to be eligible for inclusion in the National Film Registry. The Librarian also proposed procedures to allow the public the greatest flexibility in nominating films for inclusion. This is in keeping with the two very broad goals of the Librarian in administering the National Film Preservation Act: (1) To promote film as an art form and (2) to generate public interest in the preservation of motion pictures.

The Librarian received only one comment on the proposed guidelines and procedures. The comment supported the Librarian's view that the guidelines should "be read broadly" to maximize the number of films that may be considered for inclusion in the Registry and offered suggested changes to the guidelines to accomplish this. The Librarian has adopted as final the proposed guidelines with one of the changes suggested in the comment.

The National Film Preservation Board met in open session on January 23, 1989, in Washington, DC to advise the Librarian on establishing criteria for the selection of films and to propose procedures for the public's involvement in the selection process. The final guidelines and procedures for selecting films published today were endorsed in almost identical form at that meeting.

Films selected for inclusion in the National Film Registry are not a list of the best twenty-five films. Rather, in keeping with Congress' intent during passage of the National Film Preservation Act, the films selected are supposed to represent the great breadth of American filmmaking in order to promote films as an art form and to draw attention to the activities of archives nationwide, including the Library of Congress, active in film preservation. By allowing the broadest possible range of films to be selected, the Librarian hopes to increase public awareness of the scope and diversity of American films deserving preservation. These films are important to our collective memory for cultural, historical and aesthetic reasons and need to be preserved for future generations.

List of Subjects in 36 CFR Part 704

Libraries, Motion pictures.

Final Regulations

In consideration of the foregoing, 36 CFR part 704 is added as set forth below.

PART 704—NATIONAL FILM REGISTRY OF THE LIBRARY OF CONGRESS

Subpart A—Films Selected for Inclusion in the National Film Registry

Sec.

Authority: Pub. L. 100–446, 102 Stat. 1782 (2 U.S.C. 178).

Subpart A—Films Selected for Inclusion in the National Film Registry

§ 704.10 Criteria for the Selection of Films for Inclusion in the National Film Registry.

(a) All of the films nominated for inclusion in the National Film Registry should reflect the congressional findings in section 1 of the National Film Preservation Act (Pub. L. 100–446) which reads:

the Congress finds that—

(1) Motion pictures are an indigenous American art form that has been emulated throughout the world;

(2) Certain motion pictures represent an enduring part of our Nation's historical and cultural heritage; and

(3) It is appropriate and necessary for the Federal Government to recognize motion pictures as a significant American art form deserving of protection.

In accordance with the intent of Congress, all of the following criteria for guidelines for the selection of films in the National Film Registry are intended to be read broadly, so that as many films as possible will be eligible for inclusion in the National Film Registry.

(b) For the purposes of film selection, a "film" is defined as a feature-length, theatrical motion picture at or after its first theatrical release.

(c) Films should be given a priority for selection to the National Film Registry if they are culturally, historically or aesthetically important.

(d) Films should not be considered for inclusion in the National Film Registry if no element or copy of the film exists. While the Librarian intends to promote the goals of film preservation provided for in the Act, no film should be denied inclusion in the National Film Registry because that film has already been preserved.

(e) No film is eligible for inclusion in the National Film Registry until 10 years after such film's first theatrical release.

§ 704.11 Procedures for the public to recommend films for inclusion in the National Film Registry.

(a) All notices of meetings of the National Film Preservation Board will be published in the **Federal Register**.

(b) A mailing address within the Library of Congress will be established in order to allow the public to make nominations of films to the Librarian and the National Film Preservation Board. All nominations should include the film title only, unless additional information is necessary to prevent confusion with similarly named titles.

(c) Materials will be prepared for congressional offices to send information to constituents who wish to make nominations. Materials will also be made available for distribution to libraries, movie theaters, and through the guilds and societies representing actors, directors, screenwriters, producers, and film critics, film preservation organizations and representatives of academic institutions with film study programs, in order to encourage broad participation from the general public. The nominations, when received, will be forwarded to the Librarian of Congress and members of the Board to assist them in making

selections of films in the National Film Registry.

(d) The Librarian of Congress will study the possibility in future years of broadcasting notices to the public on television and radio, after further review by the Board and after consulting with the broadcast industry.

(e) All nominations for inclusion of films in the National Film Registry, for each year, from whatever source, must be submitted in writing, by mail, to the Librarian of Congress no later than April 21 of each year. All nominations should be mailed to:

National Film Registry, Library of Congress, Washington, DC 20540.

Dated: August 2, 1990.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 90-18640 Filed 8-8-90; 8:45 am]

BILLING CODE 1410-18-M

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36 CFR Part 704

National Film Preservation Board; Final Regulations for the Labeling and Use of the Seal for Films Selected for Inclusion in the National Film Registry

AGENCY: Library of Congress, National Film Preservation Board.

ACTION: Final regulations.

SUMMARY: The Librarian of Congress is issuing the following final regulations pursuant to section 3 of Public Law 100-446, The National Film Preservation Act of 1988, 2 USC 178.

These regulations should be used by film owners, distributors, exhibitors and broadcasters in order to determine whether a version of one of the films selected for inclusion in the National Film Registry, which is in their possession, has been colorized or otherwise materially altered and therefore must carry a label as designated at section 4 of the Act, 2 USC 178c. In addition to the use of a label, these regulations are to be used for the placement of the seal of the National Film Registry on one of the designated films. That seal can only be used for films that are *not* colorized or otherwise materially altered.

EFFECTIVE DATE: September 24, 1990.

FOR FURTHER INFORMATION CONTACT: Eric Schwartz, Counsel, The National Film Preservation Board, Library of Congress, Washington, DC 20540. Telephone: (202) 707-8350.

SUPPLEMENTARY INFORMATION: On November 30, 1989 (54 FR 49310) the Librarian of Congress published a notice of proposed guidelines for the labeling of the first twenty-five films selected for inclusion in the National Film Registry and the proposed list of those twenty-five films.

The Librarian received eleven comments regarding the proposed film labeling guidelines. None commented on the proposed list of film titles. While some of the comments supported the proposed guidelines overall, each of the comments proposed some modifications to the guidelines as published in the Federal Register—some offering minor technical changes and others offering drastic changes to particular parts of the guidelines. None of the comments suggested overhauling the structure of the proposal, which divided the guidelines into two sections, one defining what is considered a material alteration and the other defining what is not considered a material alteration.

The Librarian has studied carefully the comments that were submitted, and for reasons detailed in this announcement, is issuing the final regulations found below.

Background

A. Twenty-Five Films Registered on the National Film Registry

Under section 3(a)(2)(A) of the Act, 2 U.S.C. 178b, the Librarian after consultation with the Board shall determine "which films satisfy the criteria developed pursuant to paragraph 3(a)(1)(A), and qualify to be included in the National Film Registry" and shall select no more than twenty-five films per year for inclusion in such Registry. The criteria for the selection of films and the procedures used to enlist the public's nominations of these films are also promulgated today separately, in final form (Final Regulations Establishing Criteria for the Selection of Films and Procedures for the Public Participation in the Selection of Films for the National Film Registry).

The National Film Preservation Board received 962 film titles from the general public during the 1989 selection process, and reduced the list to twenty-five film titles for consideration by the Librarian of Congress after meeting on July 19, 1989 in Los Angeles. Today the Librarian of Congress, Dr. James H. Billington, after consultation with the National Film Preservation Board, formally registers these films in the National Film Registry.

B. Proposed Labeling Guidelines

In accordance with section 3(a)(1)(C) of the Act, 2 U.S.C. 178b, the Librarian shall "establish general guidelines so that film owners and distributors are able to determine whether a version of a film registered on the National Film Registry which is in their possession has been materially altered." These guidelines apply only to the films selected for inclusion in the National Registry. No more than seventy-five films can be selected for inclusion in the Registry.

The labeling requirements under the law are not effective until 45 days after publication in the Federal Register. These final regulations will therefore become effective on September 24, 1990. In accordance with section 13, 2 U.S.C. 1781, the provisions of the Act shall not apply to any copy of a film materially altered prior to September 27, 1988 if such copy is "owned by an individual for his personal use, in the inventory of the manufacturer or packager of a videocassette or already distributed to retail or wholesale distributors of videocassettes." That section makes all of the provisions of the Act (including the labeling requirements) effective for only three years, which means that the law and all of its requirements expire on September 27, 1991.

In addition, in accordance with section 3(a)(2)(C), 2 U.S.C. 178b, the Librarian shall "provide a seal to indicate that the film has been included in the National Film Registry as an enduring part of our national cultural heritage and such seal may then be used in the promotion of any version of such film that has not been materially altered." A seal has been designed for these purposes and can be obtained from the Library's Motion Picture, Broadcasting and Recorded Sound Division at (202) 707-5840.

Under the law, the films selected for the National Film Registry can carry either the seal or the required label but not both, depending on whether or not a particular version of one of the films has been "materially altered" within the definition provided in section 11, 2 U.S.C. 178j. Materially altered films must carry the label, and films not materially altered may carry the seal.

The approach of Congress under the Act was to leave unaffected the law governing the actual practices of colorizing or otherwise changing motion pictures from their original theatrical release to other formats for television, cable, videocassette, laser disk, or any medium of broadcast or distribution. The Act does not prevent alterations of motion pictures, but it requires a public disclosure, via a label, of certain alterations of films selected for inclusion in the National Film Registry. Copies of films not "materially altered" may carry the seal of the National Film Registry.

After the films are selected, labels must be attached to all copies of these

films that are either (1) colorized or (2) materially altered. Anyone who "knowingly distributes or exhibits to the public" a materially altered (including colorized) copy of the film without the required label, or with the seal of the National Film Registry, is subject to civil penalties under the law.

The label that is attached to colorized or materially altered copies of the film is specified in the law and has been reprinted in the final regulations for the benefit of film owners, distributors, exhibitors and broadcasters. Neither the Librarian nor the Board has the authority to change the label that must be attached to these films.

The Act imposes the duty of affixing the appropriate label to copies of the film upon the copyright owners, distributors, exhibitors and/or broadcasters, and gives these individuals the option of applying the seal of the National Film Registry, where appropriate. Many industries that distribute and exhibit films are affected by the labeling requirements and the use of the seal. They include, but are not limited to: broadcast and cable television (including transmissions by satellite, pay per view, etc.), the rental and sale videocassette and laser disk markets, theatrical exhibitors, and the airlines.

The Act specifically directs the Librarian, after consultation with the Board, to issue "labeling guidelines." The authority of the Librarian is constrained by the provisions of the National Film Preservation Act as a whole. The guidelines issued by the Librarian cannot exceed the language of the Act nor the underlying intent of Congress. Many of the comments were directed to the language of the statute and to the legislative history, which was limited to the statements of members of the House and Senate since no hearings were held on the legislation and neither a committee report nor a conference report was filed.

The law is concerned only with fundamental post-production alterations made to films for marketing purposes. The "base line" copy of a particular film that all other copies are measured against is the first theatrically released version. The duties imposed by the Act apply only to versions embodying fundamental changes made subsequent to the first theatrical release.

The staff of the Motion Picture, Broadcasting and Recorded Sound Division of the Library of Congress will answer inquiries, based upon their research, as to what the "original" (first theatrically released) version is for each of the first twenty-five films selected. The Library, with the assistance of copyright owners and other research institutions, will compile information from production reports, shooting scripts (including continuity scripts) and similar materials which are useful for indicating the running time and contents of the first theatrical release for each of the selected films. This descriptive information concerning the first theatrical release version will be made available to copyright owners, exhibitors, distributors and broadcasters for each of the twenty-five films. Individuals needing this information for purposes of complying with the National Film Preservation Act should write to the following address: Motion Picture, Broadcasting and Recorded Sound Division/Library of Congress/ Washington, DC 20540 or call (202) 707–5840.

Ultimately it is the responsibility of the copyright owners, exhibitors, distributors and broadcasters to decide whether or not a copy of film within their possession must carry the label or may carry the seal of the National Film Registry. However, no distributor or exhibitor of a film will be subjected to the fines at section 6, 2 U.S.C. 178e, if in good faith, they base their decision to label or use the seal, on the information provided to them by the Library of Congress.

The Act requires that copies of films that have been both colorized and otherwise materially altered carry both labels. Also, in cases where the film has been altered with the participation of the principal director, screenwriter or other creators of the original film, the law does not allow flexibility and one of the two labels above, must be affixed to the film. However, in the opinion of the Librarian, in cases where a "material alteration" (or colorization) as defined in the Act and the guidelines is carried out under the direct supervision and with the participation and cooperation of the principal director, principal screenwriter, or other creators of the original film, injunctive relief or fines for failure to label will not be sought.

Section 11 of the law, 2 U.S.C. 178j, defines "material alteration" to mean "to colorize or to make other fundamental post-production changes in a version of a film for marketing purposes but does not include changes made in accordance with customary practices and standards and reasonable requirements of preparing a work for distribution or broadcast."

Section 11, 2 U.S.C. 178j, goes on to add two additional definitions for further clarification. To colorize means "to add color, by whatever means, to versions of motion pictures originally produced, marketed, or distributed in black and white." And finally, under section 11(b), "excluded from the definition of 'material alteration' are practices such as the insertion of commercials and public service announcements for television broadcast."

Since many of the practices are unfamiliar to the general public, the following definitions are provided for purposes of illustration:

(a) *Colorization (also known as computer color encoding):* This is a process by which black and white film prints are transferred to videotape and electronically encoded with color. The film print itself cannot be colored by existing computer technologies, only by chemical processes such as tinting (the addition of a single color for effect).

(b) *Panning and scanning:* This is a process by which motion pictures, composed for viewing on theatre screens, are adapted for viewing on television screens (including videocassettes). This process involves reconciling the larger theatrical "aspect ratio" (ratio of width to height) to the smaller space available on a television screen.

(c) *Letterboxing:* This technique is an alternative to panning and scanning and permits the original composition of a theatrical motion picture to be retained on television (including videocassettes) by reducing the size of the image. Letterboxing leaves dark bands at the top and bottom of the screen.

(d) *Lexiconning (also known as time compression/time expansion):* This technology involves the electronic time compression or expansion of a motion picture in order to fit the picture into broadcast time slots (or to reduce the running time on videocassettes).

(e) *Computer generation of images:* This new technology allows for computer created life-like representations of people (or anything else) to be substituted or added to videotapes of preexisting motion pictures.

Summary of Public Comments

A total of eleven public comments were received on the proposed labeling guidelines. Most of the comments were submitted by trade associations and individual members who are either copyright owners, distributors, or potential broadcasters of the films selected for inclusion in the National Film Registry.

Comments were also received from creative participants in the creation of motion pictures, an organization that works to protect constitutional rights, a member of Congress involved in the

passage of the Act, and one member of the National Film Preservation Board.

Several of these comments were critical of the Act itself though they praised its preservation goals and the Library's preservation activities as worthwhile endeavors.

The comments from the Motion Picture Association of America (MPAA), the National Association of Broadcasters (NAB), Turner Broadcasting System, Inc., NBC, The Committee for America's Copyright Community (CACC), and the Video Software Dealer's Association (VSDA) generally proposed restricting the labeling requirements to the fewest cases possible.

Specifically, the comments from these organizations called for (among other things) broadening the exemptions from labeling requirements to include such practices as panning and scanning, editing for time purposes, changes in soundtracks, "standards and practices" for any medium (not just for "captive audience" situations such as broadcast television or airlines), and the insertion of new materials. Several also opposed the Librarian's "encouraged" use of labels, suggesting that this would lead to confusion among copyright owners, distributors, exhibitors and broadcasters.[1]

The Honorable Jack Brooks, Chairman of the House Committee on the Judiciary, felt strongly that the "recommended use" of labels would lead to confusion. His comment letter, like several others, called for the exclusion of panning and scanning and editing for time purposes from the labeling requirements. He said these practices were meant to be excluded from the labeling requirements when Congress enacted the definition at section 11, 2 U.S.C. 178j.

The American Civil Liberties Union (ACLU) opposed broad labeling guidelines questioning the constitutionality of a "vague" definition provided at section 11, 2 U.S.C. 178j. The ACLU urged the enactment of guidelines that exclude as many practices as possible, in order to accomplish the purpose of the guidelines in the least burdensome way.

On the other hand, the Directors Guild of America (DGA), the American Society of Cinematographers, and the Society for Cinema Studies (SCS) concurred with the Librarian's proposed guidelines.[2] The Directors Guild proposed that the guidelines include more practices than those set out in the proposals including the remixing or remastering of soundtracks, editing for airline use, all time compression or time expansion, holographic changes and changes in lighting and texture, the insertion of station promotion materials, all panning and scanning, works prepared for foreign distribution, any dialogue replacement, preservation activities by non-"recognized" film archivists and the inadvertent loss of film. The Society for Cinema Studies enthusiastically supported the encouraged uses of the seal and called for more voluntary labeling as well as a broadening of the labeling requirements for any changes made to these films.

On the issue of time compression and time expansion, the proposed guidelines specifically asked for guidance from the film industry in order to define the "reasonable requirements" of preparing works using this practice. The proposals asked for guidance in determining what "percentage of overall running time" should be considered reasonable.

The Society for Cinema Studies and the Director's Guild both called for an absolute prohibition, requiring labeling for any time compression or time expansion. The ACLU recommended that because of the difficulty distributors or exhibitors would have in recognizing the practice, it should be excluded altogether from the labeling requirements.

The MPAA (after stating its objection to an objective standard) recommended a rule exempting 6–7 percent of the running time applied to the projection rate of a particular scene, not to the running time of the motion picture as a whole. The NAB agreed that a percentage of overall running time would not work but did not recommend a standard. Turner Broadcasting said that their corporate policy is to limit lexiconning (time compression or expansion) to no more than 5% of total running time of the overall film.

Consultation With the Film Preservation Board

In addition to public comments, the Librarian must also consult with the Film Preservation Board in order to establish the labeling guidelines according to section 3(a)(1), 2 U.S.C. 178b. On September 26, 1989, the National Film Preservation Board met at the Library of Congress to discuss the labeling guidelines.

The Board discussed specific practices used in the post-production and dissemination of motion pictures. The Board approved by a 9–3 vote (with one member absent) a motion recommending that the Librarian's labeling guidelines require labeling of "materially altered" films in all cases except where a film is edited for community standards (nudity, language or violence) or for the insertion of commercials or public service announcements.

Encouraged Use of the Seal of the National Film Registry

Only the labeling guidelines can invoke the civil penalties at sections 5 and 6, 2 U.S.C. 178d and 178e respectively. The Librarian has no jurisdiction over any films other than these twenty-five (seventy-five by the end of three years) and the Librarian does not feel it is appropriate to discuss labeling films in any other context, except as required by the National Film Preservation Act.

The Librarian would like to encourage film owners, distributors and exhibitors to use the seal of the National Film Registry with some discretion because it carries the name of the Library of Congress. The law allows the seal to be used for all films not colorized or materially altered consistent with the definition at section 11, 2 U.S.C. 178j, and the labeling guidelines printed in today's notice.

However, the Librarian would prefer that films carry the seal of the National Film Registry only when they are exhibited or distributed in the original theatrical release version or in a version of the original unchanged except for good faith restoration activity. The Librarian hopes that this judicious use of the seal will assure the viewing public that they are seeing the "original" or something as close to the original as bona fide preservation activities could create.

Final Labeling Guidelines—Changes Made From the Proposed Guidelines

The guidelines are based on the statutory definition of what is and what is not a "material alteration" as provided in section 11, 2 U.S.C. 178j. Each of the practices used in the alteration of motion pictures is specified in the hopes of providing clear, unambiguous information for film owners, distributors, exhibitors and broadcasters. Wherever possible,

[1] The Librarian's recommended use of voluntary labels in addition to those required by law caused an unanticipated flurry of opposition. The recommendations were meant only to encourage and broaden existing practices informing the public when post-theatrical motion pictures are altered from versions seen during the original theatrical release.

[2] The American Society of Cinematographers proposed that the Librarian change the label required for colorized or materially altered films to include recognition of the cinematographer. However, the Librarian has no authority to change the label prescribed in section 4, 2 U.S.C. 178c, only Congress can change the label.

objective standards are provided based on what is considered a "reasonable requirement" within the motion picture and broadcast industry.

In some instances, the guidelines are silent with regard to the standards where other laws govern. For example, the Federal Communications Commission provides broadcast standards for the airing of programming on television. The insertion of commercials, exempted from the labeling guidelines, is clearly governed by FCC broadcast standards and there is no need to elaborate on these standards in the guidelines.

Commercials can be freely inserted during the broadcast of the selected films, as for any other film. However, the amount of material which can be removed from the film itself during a broadcast is limited by the guidelines because of the historic nature of these films and the requirements of section 11, 2 U.S.C. 178j.

Based on an analysis of the statute, the legislative history and the comments received, one particular practice, panning and scanning, was excluded from the definition of a "material alteration" when done in a "reasonable" or "customary" manner. There was unanimous agreement from members of the House and Senate involved in the enactment of the Act to do this.

This means that when adapting the theatrical films to television, videotape or laser disc, the copyright owner (or licensee) who decides to pan and scan must do so in a manner considered "reasonable" or "customary" in the industry in order to avoid the labeling requirement. Only two of the films (*Star Wars* and *The Learning Tree*) were originally shot in aspect ratios greater than 1.85 which will require extensive panning and scanning. As always, the choice of how to adapt these films (using panning and scanning or letterboxing) is left to the discretion of the copyright owner or licensee.

Based on the comments received by the Library of Congress from many sources, some changes have been made to the proposed labeling guidelines (November 30, 1989, 54 FR 49310) in these final labeling guidelines. The basic premise, however, is the same.

Five major changes were made from the guidelines as proposed in November:

First, based on information provided in the comments, a standard of 5% of running time (per scene or per total running time of the film overall) for time compression or time expansion (lexiconning) has been incorporated into the definition of what is *not* a material alteration.

Second, in order to narrow the focus of the labeling requirements in accordance with congressional intent, an exemption is provided from labeling if materials equaling up to 5% of running time are removed for any reason. This allows 3 minutes per hour of running time to be edited out over and above any removal of materials which is necessary for community standards and practices (including nudity, profanity and explicit violence).

The result of these two exemptions from labeling, is an allowance of a total of up to 10% of the original running time for the combined removal or materials (not counting community standards) plus time compression. This allows up to 6 minutes an hour to be removed and time compressed. These standards are based on the information received and are within Congress' intent to allow for the "reasonable requirements" of preparing a work for distribution or broadcast. All of the percentages are based on the original running time of the first theatrical release, which will be researched and available to the public from the staff of the Library of Congress.

Third, in order to clarify the focus of the labeling requirements, practices used for good faith restoration and archiving have been clearly articulated to prevent abuse of this exemption, but in order to allow some practices to continue without labeling, such as color corrections (for color films) or good faith soundtrack restorations (to the fullest extent possible).

Fourth, where alternate materials shot by the original director are inserted for alternate versions, whether for community standards or for other marketing purposes (such as rereleases), the label prescribed by the Act would not serve its intended useful purpose and is therefore not required.

Finally, as a result of the comments received, the exclusion for panning and scanning was changed from an objective standard based on aspect ratios, to a standard based on the "reasonable" and "customary" uses within the industry.

Regulatory Flexibility Act

With respect to the Regulatory Flexibility Act, the Librarian takes the position that this Act does not apply to Library of Congress rule-making. The Library of Congress is a part of the legislative branch. The Library of Congress is not an "agency" with the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5, chapter of the U.S. Code, subchapter II and chapter 7). The Regulatory Flexibility Act consequently does not apply to the Library of Congress since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.

List of Subjects in 36 CFR Part 704

Libraries, Motion pictures.

Final Regulations

In consideration of the foregoing, 36 CFR part 704 is amended in the manner set forth below.

PART 704—NATIONAL FILM REGISTRY OF THE LIBRARY OF CONGRESS

1. The authority citation for 36 CFR part 704 continues to read as follows:

Authority: Pub. L. 100–446, 102 Stat. 1782 (2 U.S.C. 178).

Subpart A—Films Selected for Inclusion in the National Film Registry

2. In Subpart A, § 704.20 is added to read as follows:

§ 704.20 Films selected for inclusion in the National Film Registry in the Library of Congress for 1989.

(a) The Librarian of Congress, Dr. James H. Billington, after consultation with the National Film Preservation Board registers these films in the National Film registry within the Library of Congress for 1989:

(1) The Best Years Of Our Lives (1946)
(2) Casablanca (1942)
(3) Citizen Kane (1941)
(4) The Crowd (1928)
(5) Dr. Strangelove (or, How I Learned To Stop Worrying And Love the Bomb) (1964)
(6) The General (1927)
(7) Gone With The Wind (1939)
(8) The Grapes Of Wrath (1940)
(9) High Noon (1952)
(10) Intolerance (1916)
(11) The Learning Tree (1969)
(12) The Maltese Falcon (1941)
(13) Mr. Smith Goes to Washington (1939)
(14) Modern Times (1936)
(15) Nanook Of The North (1922)
(16) On The Waterfront (1954)
(17) The Searchers (1956)
(18) Singin' In The Rain (1952)
(19) Snow White And The Seven Dwarfs (1937)
(20) Some Like it Hot (1959)
(21) Star Wars (1977)
(22) Sunrise (1927)
(23) Sunset Boulevard (1950)
(24) Vertigo (1958)
(25) The Wizard Of Oz (1939)

(b) In keeping with section 3(c) of the Act, 2 U.S.C. 178b, the Librarian will endeavor to obtain an archival quality copy for each of these twenty-five films

for the National Film Board Collection in the Library of Congress.

3. A new Subpart B—Film Labeling Guidelines, is added to read as follows:

Subpart B—Film Labeling Guidelines

§704.30 Film labeling guidelines for films registered in the National Film Registry.

(a) The following practices are examples of fundamental post-production changes deemed "material alterations" under section 11 of Public Law 100–446, 2 U.S.C. 178j. Copies of films in the National Film Registry which use these practices are subject to the labeling requirements set forth in section 4 of the Act, 2 U.S.C. 178c, and are prevented from using the seal of the National Film Registry:

(1) Colorization, including any black and white film or portions thereof, to which color is added by whatever means;

(2) Fundamental changes in theme, plot and character, including, but not limited to:

(i) Technological substitution of characters' bodies and faces or life-like characters who are modeled after known personalities;

(ii) The addition of any other new materials, by digital or other technological means, into preexisting films including the substitution of a new soundtrack (but not the remixing or remastering of a preexisting soundtrack);

(3) Removal of materials (editing out) for all purposes including broadcast time slots or for other marketing or aesthetic purposes of over 5% of the total running time of the original theatrical release. However, the following are not "material alterations" and can be carried out in addition to the 5% removal of materials for the purposes above:

(i) The removal of materials for community standards and practices, including nudity, profane language or explicit violence for broadcast television and airline use or the insertion of alternate versions of material for these same purposes.

(ii) The inadvertent or unavoidable loss of de minimis amounts of material due to repeated uses of a particular copy, for example, by splicing and breakage;

(iii) The release or rerelease of a copy in multiple volumes (for example, long works released on two videocassettes or broadcast in multiple parts) or in versions, where materials are inserted, restored or reedited under the direct supervision of the principal director, principal screenwriter or other creative participants (such as cinematographers, editors, art directors or principal actors/actresses);

(4) Time compression and time expansion (lexiconning) which alters the running time of a particular scene or the overall running time of the original theatrical release version by 5%. However, the cumulative total amount of material removed or altered by paragraphs (a)(3) (excluding paragraphs (a)(3) (i), (ii) and (iii)) and (a)(4) of this section cannot equal more than 10% of the total running time of the original theatrical release;

(5) Any other intentional mutilations or defacements of the actual film, such as the defacing of a negative by purposefully scratching a new image over an old image;

(b) The following practices are examples of fundamental post-production changes that are not "material alterations" under section 11 of Public Law 100–446, 2 U.S.C. 178j. Copies of films in the National Film Registry which use these practices would *not* be subject to the labeling requirements set forth in section 4 of the Act, 2 U.S.C. 178c, and would be allowed to use the seal of the National Film Registry. However, these practices must be carried out in a manner which is considered reasonable and customary in the motion picture or broadcast industry at the time the particular work is distributed, exhibited or broadcast:

(1) The insertion of commercials and public service announcements for broadcast television purposes only, including station promotion material, and similar materials, whether by physically splicing onto the copy or by interruption of the broadcast in accordance with broadcast standands;

(2) The physical transfer of film onto videotape (or any other format such as compact laser disks). This includes the transfer by use of panning and scanning for all films when it is conducted in a manner considered reasonable or customary within the industry;

(3) The removal or insertion of materials necessary to prepare films for foreign markets by dubbing, subtitling or editing for foreign censors;

(4) The use of any practice, including those listed above in paragraphs (a) (1) through (5) of this section, carried out as part of any good faith restoration or archival activity, in order to repair damages or deterioration to the film (including color corrections for films originally released in color) or soundtracks (including instances where original soundtrack materials cannot be located or restored after good faith efforts);

(c) The Act, at section 4(d), 2 U.S.C. 178c, sets out two labels (one for colorized films, the other for materially altered versions other than colorized ones) and specifies their placement and size. In accordance with this section, the labels are to read:

(1) For colorized films—"This is a colorized version of a film originally marketed and distributed to the public in black and white. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film."

(2) For materially altered films—"This is a materially altered version of the film originally marketed and distributed to the public. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film."

Dated: August 2, 1990.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 90–18641 Filed 8–8–90; 8:45 am]

BILLING CODE 1410–18–M

federal register

Thursday,
August 9, 1990

Part IV

Environmental Protection Agency

Denial of Application for Federal Registration of 1080 Instrastate Pesticide Products

ENVIRONMENTAL PROTECTION AGENCY

[OPP-68014A; FRL-3794-7]

Denial of Application for Federal Registration of 1080 Intrastate Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of application for Federal registration.

SUMMARY: On October 4, 1988, the Agency notified applicants for Federal registration of intrastate pesticide products containing sodium fluoroacetate (Compound 1080) that it intended to deny the applications for Federal registration because insufficient data had been submitted in support of the applications. By this notice, the Agency is denying those applications for Federal registration because of the continuing insufficiency of supporting data.

DATES: This denial notice is effective August 9, 1990. Any adversely affected persons who wish to challenge the denial must file a request for hearing within 30 days of publication of this notice, or receipt by an applicant of the denial determination, whichever is later.

ADDRESSES: Requests for a hearing must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Steve D. Palmateer, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. Introduction

In July 1985, EPA issued a Position Document 4 (PD 4) concluding a Special Review of the rodenticidal uses of Compound 1080 (sodium fluoroacetate). At that time, 1080 was available for control of field rodents in four States: California, Colorado, Nevada, and Oregon. The use of 1080 in California, Colorado, and Nevada was pursuant to "intrastate" registrations issued prior to 1972 by the three States independent of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the use of 1080 in Oregon was pursuant to a "special local needs" registration granted under FIFRA section 24(c). As part of its determination concluding the Special Review, EPA required registrants holding intrastate registrations to apply for Federal registrations under FIFRA section 3 and to submit (according to a schedule provided in the PD 4) certain specified data necessary to support registration under section 3. In a Data Call-In (DCI) Notice issued on November 22, 1985, the applicants for Federal registration were required to submit data in the areas of product chemistry, toxicology, environmental fate, wildlife safety, and efficacy. On December 15, 1987, EPA issued a DCI Notice requiring the submission of additional environmental fate data.

Holders of the intrastate registrations in California and Colorado filed timely applications for Federal registration of their 1080 products. Although the States of California and Colorado tendered some data to the Agency to support the applications for registration, the data were found by the Agency to be insufficient. The Agency conditionally offered in a letter dated December 17, 1987 to extend the time for generating the required data. None of the holders of the intrastate registrations satisfied the conditions for an extension of time. At this time, the Agency still has not received sufficient data to support registration under FIFRA section 3 of rodenticide products containing 1080 as an active ingredient.

On October 4, 1988, the Agency notified the holders of the remaining intrastate 1080 rodenticide registrations that the Agency intended to deny the applications for Federal registration because of the applicants' failure to submit sufficient data to support the proposed registrations. The applicants submitted limited data subsequent to the notification of the Agency's intent to deny.

Although the applications at issue are for end-use products, it should also be noted that on February 21, 1989, the Agency canceled Tull Chemical Company's conditional registration for 1080 technical product because of a failure to comply with the condition of the conditional registration requiring the submission of necessary data to support the registration. The DCI Notice issued on November 22, 1985, gave notice to the applicants here that "the data requirements that are normally the responsibility of the manufacturing-use producer of 1080 must be met by end-use producers if the required data are not generated by the basic producer." Tull's registration was the last remaining technical 1080 registration applicable to the uses covered by the applications at issue here; neither Tull nor any other person has supplied the necessary data to support such a technical registration. It has therefore become the responsibility of the applicants to generate these data. Since the Notice of Intent to Deny these applications was based solely upon the failure to submit sufficient data to support end-use products, the basis for this Denial Notice is similarly limited to the failure to supply the required end-use data. The applicants are on notice, however, that no registration for 1080 end-use products can be granted unless data sufficient to support the technical product are submitted to EPA. The unfulfilled technical-product data requirements are contained in the Notice of Intent to Cancel Tull's Conditional Registration (53 FR 39792, October 12, 1988). The Agency reserves the right to issue an additional Notice of Intent to Deny these applications for failure to supply the technical-product data identified in the November 22, 1985 DCI Notice.

II. Legal Authority

As a general matter, pesticides may not be sold or distributed in the United States unless they are registered under FIFRA (FIFRA sections 3(a), 12(a)(1)(A)). Applicants for registration must submit (or reference previously submitted) data sufficient to support the registration of the pesticide (FIFRA section 3(c), 40 CFR part 158). The Administrator shall grant an application for registration if, *inter alia*, he determines that the pesticide will perform its intended function without unreasonable adverse effects on the environment and, when used in accordance with widespread and commonly recognized practice, the pesticide will not generally cause unreasonable adverse effects on the

environment (FIFRA section 3(c)(5)). If the Administrator determines that the standard for registration is not met, he may notify the applicant that he intends to deny the registration. The applicant thereupon has 30 days to correct any deficiencies in the application. If the application is not corrected, the Administrator may then issue a Notice of Denial of Registration (FIFRA section 3(c)(6)). Registrants and other persons adversely affected by the denial have 30 days to request a hearing after either publication of the denial in the **Federal Register** or receipt by the registrant of the denial, whichever date is later (FIFRA section 3(c)(6), 6(b)).

The Agency has by regulation effectively exempted certain intrastate pesticide products from the general prohibition (contained in FIFRA sections 3(a) and 12(a)(1)(A)) against sale or distribution of pesticides not registered under FIFRA. EPA's regulations permit such sale and distribution provided that, *inter alia*, the producer of the pesticide has submitted a timely application for Federal registration and the Agency has not issued a Notice of Denial of the application (40 CFR 152.230). Once a Notice of Denial is issued, the regulation no longer provides permission for the sale or distribution of the intrastate product, and the statutory prohibitions against sale or distribution of pesticides not registered under FIFRA apply with full force.

III. Denial of 1080 Applications

As noted above, holders of intrastate registrations of 1080 for rodenticide uses were required in 1985 to submit applications for Federal registration under FIFRA and to submit certain data according to a specified schedule to support those applications. A number of applications for registration were submitted to EPA. Those applications, all of which are denied pursuant to this Notice appear in the following list:

A List of Products Subject to Denial Notice

Product Names and EPA File Symbols of California (CA) and Colorado (CO) Intrastate Products Containing Compound 1080 that were Submitted in Response to the Agency's November 22, 1985 Notice of Call-In for Federal Registration of All Intrastate Products Containing Sodium Fluoroacetate (Compound 1080)

Product Name	State/County	EPA File Symbol	EPA Accession Number
1080 Squirrel Poison Grain Bait	CA/Alameda	10924-R	09281
1080 Squirrel Poison Grain Bait	CA/Contra Costa	10989-R	08234
1080 Squirrel Poison Grain Bait (0.11)	CA/Fresno	11019-R	09045
1080 Squirrel Poison Grain Bait (0.08)	CA/Fresno	11019-E	09046
1080 Squirrel Poison Grain Bait (0.05)	CA/Fresno	11019-G	09047
1080 Rodent Poison Grain Bait	CA/Kern	11067-R	05348
Compound 1080 Rodent Poison Grain Bait	CA/Kings	11071-R	06233
1080 Squirrel Poison Grain Bait	CA/Kings	11071-E	06234
1080 Poison Grain Bait XX for Ground Squirrels	CA/Madera	11085-R	06147
1080 Poison Grain Bait X for Ground Squirrels & Meadow Mice	CA/Madera	11085-E	06146
Poison Grain for Ground Squirrels	CA/Merced	11101-R	06034
Poison Grain for Ground Squirrels by Aircraft	CA/Merced	11101-E	06033
Compound 1080 Rodent Poison Grain Bait	CA/Merced	11101-G	06015
1080 Poisoned Mouse Bait No. 20-2	CA/Modoc	11105-R	06941
1080 Poison Ground Squirrel Bait 20-2	CA/Modoc	11105-E	06940
1080 Poison Ground Squirrel CAbbage Bait	CA/Modoc	11105-G	06939
1080 Squirrel Poison Grain Bait	CA/Riverside	11150-R	08483
1080 Squirrel Poison Grain Bait	CA/San Benito	11165-R	08607
Compound 1080 Squirrel Poison Grain Bait	CA/San Benito	11165-E	08606
1080 Poison Grain Bait	CA/San Bernardino	11166-R[1]	08893
1080 Squirrel Poison Grain Bait	CA/San Joaquin	11174-R	06148
Ten-Eighty Poisoned Bait	CA/Santa Barbara	11181-R	07070
1080 Poisoned Bait	CA/Santa Clara	11182-R	08699
20% 6 oz, 1080 Squirrel Poison	CA/Siskiyou	11193-R	06716
20% 2 oz, 1080 Mouse Poison	CA/Siskiyou	11193-E	06717
100% 1 oz, 1080 Mouse Poison	CA/Siskiyou	11193-G	06718
100% 2 oz, 1080 Mouse Poison	CA/Siskiyou	11193-U	06719
1080 Squirrel Poison Grain Bait	CA/Sutter	11208-R	18713
Compound 1080 Rodent Poison Grain Bait	CA/Tulare	11224-R	08506
0.078% - 1080 Poison Bait	CA/Monterey	11418-R	10243
Ten-Eighty Poisoned Bait - Oat Groats	CA/Monterey	11418-E	10242
1080 Squirrel Poison Barley	CA/Stanislaus	34485-R	06987
1080 Gopher Bait	CA/Stanislaus	34485-E	06988
1080 Squirrel Poison Grain Bait	CA/Stanislaus	34485-G	06989
Compound 1080 Rodent Poison Grain Bait	CA/Fresno	11019-U	None[2]
Ten-Eighty Poisoned Grain	CA/San Luis Obispo	11172-R	None[2]
Ground Squirrel Bait Containing 1080	CO/Entire State	33968-RN	03003[3]
Prairie Dog Bait Containing 1080	CO/Entire State	33968-RR	03003[3]

[1] Canceled by the Agency December 31, 1987, at the request of the registrant.

[2] These products are considered pending registration actions and are not intrastate products and their use has never been lawful. These pending applications are subject to this Denial Notice.

[3] The Colorado Intrastate 1080 product (33968-03003) was split into two products because of a difference in the percentage of 1080. The split was requested in the Agency's November 22, 1985 Data Call-In (DCI) Notice for Federal Registration of Colorado Intrastate Products Containing Sodium Fluoroacetate (Compound 1080).

Although the Agency has some question as to whether two of the products in California for which application was made, Compound 1080 Rodent Poison Grain Bait (File Symbol 11019-U, Fresno County) and Ten-Eighty Poisoned Grain (File Symbol 11172-R, San Luis Obispo County) were properly issued intrastate registrations, the applications for those two products were considered along with the applications for the other 1080 registrations, and the Agency has, for purposes of this Denial Notice, treated

those two products as if they have valid intrastate registrations.]

While a number of timely applications were made for Federal registration, the Agency has not received adequate data, as requested in 1985 and in 1987, to support those applications. The Agency also received efficacy data from Modoc County, CA, in February l990. These data were reviewed and determined to be inadequate.

The status of data submission for each application is as follows:

1080 Requirements and/or Data Outstanding/California Intrastate Products[1]

EPA File Symbol: 10924–R, 10989–R, 11019–R, 11019–E, 11019–G, 11067–R, 11071–R, 11071–E, 11085–R, 11085–E, 11101–R, 11101–E, 11101–G, 11105–R, 11105–E, 11105–G, 11150–R, 11165–R, 11165–E, 11166–R, 11174–R, 11181–R, 11182–R, 11193–R, 11193–E, 11193–G, 11193–U, 11208–R, 11224–R, 11418–R, 11418–E, 34485–R, 34485–E, 34485–G, 11019–U, 11172–R[2]

DCI Notices Dated: November 22, 1985 and December 17, 1987 (Extension of Time)

Requirement	Outstanding Requirements
EPA Form 8570–1	X
Confidential Statement of Formula	X
3(c)(1)(D) Data Compensation	X
Commitment to Fulfill Data Requirements	X
Label	X

Data Requirements To Support Registration

Test Requirements	Guideline Reference No.	Outstanding Data
§§ 158.150 through 158.190 (Subpart C—Product Chemistry Data Requirements).		
Product Identity:		
Product Identity and Disclosure of Ingredients	61-1	Yes
Description of Beginning Materials and Manufacturing Process	61-2	Yes
Discussion of Formation of Impurities	61-3	Yes
Analysis and Certification of Product Ingredients		No
Certification of Limits	62-2	Yes
Analytical Methods for Enforcement of Limits	62-3	Yes
§ 158.190 Physical and Chemical Properties.		
Color	63-2	Yes
Physical State	63-3	Yes
Odor	63-4	Yes
Density	63-7	Yes
Storage Stability	63-17	Yes
§ 158.240 Residue Chemistry Data Requirements.		
Chemical Identity	171-2	Yes
Directions for Use	171-3	Yes
§ 158.340 1080 Toxicology Data Requirements.		
Acute Testing:		
Oral LD_{50} - Rat	81-1	Yes
Dermal LD_{50} - Rabbit (Preferred Species)	81-2	Yes
Eye Irritation - Rabbit	81-4	Yes
Skin Irritation - Rabbit	81-5	Yes
§§ 158.490 and 158.640 1080 Wildlife and Aquatic Organism and Product Performance Data Requirements.		
Avian and Mammalian Testing:		
Avian and Mammalian Secondary Hazard Studies[3]	71-5	Not required until notified by Agency
Simulated and Actual Field Testing - Mammals and Birds[3]	71-5	Not required until notified by Agency
Aquatic Organism Testing:		
Simulated and Actual Field Testing - Aquatic Organisms[3]	72-7	Not required until notified by Agency
Laboratory and Field Efficacy Data to Establish the Lowest Effective Bait –Concentration for Pocket Gophers, Ground Squirrels, and Voles as appropriate.	71-5 and/or 96-5, 96-12	Yes

[1]The outstanding data requirements described in this table are listed under the assumption that there are no food or feed uses (e.g., no aerial or broadcast applications) and therefore the data requirements for a tolerance are not listed.

[2]All of the 36 California county intrastate products have been combined into this single table as the data outstanding is identical for each applicant (i.e., data requirements are not satisfied). See above list of products subject to this denial notice for name of specific applicant.

[3]Depending upon the results of other laboratory data, this data may not be required.

1080 Requirements and/or Data Outstanding/Colorado Intrastate Product[1]

Product Name: Prairie Dog Bait Containing 1080.

EPA Intrastate No.: 33968-03003

EPA File Symbol: 33968-RR

DCI Notices Dated: November 22, 1985 and December 17, 1987 (Extension of Time)

Requirement	Outstanding Requirements
EPA Form 8570-1	None.
Confidential Statement of Formula	None.
3(c)(1)(D) Data Compensation	None.
Commitment to Fulfill Data Requirements	None.
Label	None.

Data Requirements To Support Registration

Test Requirements	Guideline Reference No.	Data Outstanding
§§ 158.150 through 158.190 (Subpart C—Product Chemistry Data Requirements).		
Product Identity:		
Product Identity and Disclosure of Ingredients	61-1	No
Description of Beginning Materials and Manufacturing Process	61-2	No
Discussion of Formation of Impurities	61-3	No
§ 158.190 Analysis and Certification of Product Ingredients.		
Certification of Limits	62-2	No
Analytical Methods for Enforcement of Limits	62-3	Yes
Physical and Chemical Properties:		
Color	63-2	No
Physical State	63-3	No
Odor	63-4	No
Density	63-7	No
Storage Stability	63-17	Yes
§ 158.240 Residue Chemistry Data Requirements.		
Product Identity:		
Chemical Identity	171-2	Yes
Directions for Use	171-3	Yes
§ 158.340 1080 Toxicology Data Requirements.		
Acute Testing:		
Oral LD_{50} - Rat	81-1	Yes
Dermal LD_{50} - Rabbit (Preferred Species)	81-2	Yes
Inhalation LC_{50} - Rat	81-3	No
Eye Irritation - Rabbit	81-4	Yes
Skin Irritation - Rabbit	81-5	Yes
§§ 158.490 and 158.640 1080 Wildlife and Aquatic Organism and Product Performance Data Requirements.		
Avian and Mammalian Testing:		
Ferret Mortality Study - The most efficacious bait concentration level from field efficacy studies is to be used (prairie dog claim only)	71-5	Yes
Ferret Survey Study Confirmation (prairie dog claim only)	71-5	Yes
Protocol for Ferret Survey Study (prairie dog claim only)		No
Avian and Mammalian-Secondary Hazard Studies[3]	71-5	Not required until notified by Agency
Simulated and Actual Field Testing - Mammals and Birds[3]	71-5	Not required until notified by Agency
Aquatic Organism Testing:		
Simulated and Actual Field Testing - Aquatic Organisms[3]	72-7	Not required until notified by Agency
Laboratory and Field Efficacy Data to Establish the Lowest Effective Bait Concentration for Gunnison's and White-tailed Prairie Dog[2].	71-6 and/or 96-12	Yes

[1]The outstanding data requirements described in this table are listed under the assumption that there are no food or feed uses (e.g., no aerial or broadcast applications) and therefore the data requirements for a tolerance are not listed.

[2]All of the 36 California county intrastate products have been combined into this single table as the data outstanding is identical for each applicant (i.e., data requirements are not satisfied). See above list of products subject to this denial notice for name of specific applicant.

[3]Depending upon the results of other laboratory data, this data may not be required.

Product Name: Ground Squirrel Bait Containing 1080.
EPA Intrastate No.: 33968-03003
EPA File Symbol: 33968-RN
DCI Notices Dated: November 22, 1985 and December 17, 1987 (Extension of Time)

Requirement	Outstanding Requirements	Requirement	Outstanding Requirements
EPA Form 8570-1	None.	Commitment to Fulfill Data Requirements	None.
Confidential Statement of Formula	None.	Label	None.
3(c)(1)(D) Data Compensation	None.		

Data Requirements To Support Registration

Test Requirements	Guideline Reference No.	Outstanding Data
§§ 158.150 through 158.190 (Subpart C—Product Chemistry Data Requirements).		
Product Identity and Disclosure of Ingredients	61-1	No
Description of Beginning Materials and Manufacturing Process	61-2	No
Discussion of Formation of Impurities	61-3	No
§ 158.190 Analysis and Certification of Product Ingredients.		
Certification of Limits	62-2	No
Analytical Methods for Enforcement of Limits	62-3	Yes
Physical and Chemical Properties:		
Color	63-2	No
Physical State	63-3	No
Odor	63-4	No
Density	63-7	No
Storage Stability	63-17	Yes
§ 158.240 Residue Chemistry Data Requirements.		
Product Identity:		
Chemical Identity	171-2	Yes

Data Requirements To Support Registration—Continued

Test Requirements	Guideline Reference No.	Outstanding Data
Directions for Use	171-3	Yes
§ 158.340 1080 Toxicology Data Requirements.		
Acute Testing:		
Oral LD_{50} - Rat	81-1	Yes
Dermal LD_{50} - Rabbit (Preferred Species)	81-2	Yes
Inhalation LC_{50} - Rat	81-3	No
Eye Irritation - Rabbit	81-4	Yes
Skin Irritation - Rabbit	81-5	Yes
§§ 158.490 and 158.640 - 1080 Wildlife and Aquatic Organism and Product Performance Data Requirements.		
Avian and Mammalian Testing:		
Avian and Mammalian Secondary Hazard Studies[3]	71-5	Not required until notified by Agency
Simulated and Actual Field Testing - Mammals and Birds[3]	71-5	Not required until notified by Agency
Aquatic Organism Testing:		
Simulated and Actual Field Testing - Aquatic Organisms[3]	72-7	Not required until notified by Agency
§§ 158.490 and 158.640 - 1080 Wildlife and Aquatic Organism and Product Performance Data Requirements.		
Field Efficacy Data to Establish the Lowest Effective Bait Concentration for Richardsons Ground Squirrel.	71-5 and/or 96-12	Yes

[1]The outstanding data requirements described in this table are listed under the assumption that there are no food or feed uses (e.g., no aerial or broadcast applications) and therefore the data requirements for a tolerance are not listed.
[2]All of the 36 California county intrastate products have been combined into this single table as the data outstanding is identical for each applicant (i.e., data requirements are not satisfied). See above list of products subject to this denial notice for name of specific applicant.
[3]Depending upon the results of other laboratory data, this data may not be required

Much of the required data has never been submitted (even though long overdue). Further, the above data requirement tables identify additional tests that the Agency might have required depending upon the results of tests that, although required, have not yet been performed. These additional tests have been irretrievably delayed by the failure of the applicants for registration to comply in a timely manner with the data submission schedules issued in 1985 and 1987.

On October 4, 1988, the Agency issued to the applicants notification that the Agency intended to deny the applications for registration. That Notice formally informed the applicants that the applications were not complete, that the required data were past due, and that the applications would be denied unless the necessary corrections were made. This Notice constitutes the formal Notice pursuant to FIFRA section 3(c)(6) that the Agency is denying the applications for registration listed in Unit III. This denial of application is effective August 9, 1990. Persons adversely affected by the denial may request a hearing according to the procedures set forth below.

IV. Procedures for Requesting a Hearing

The applicants for registration, or any other person with the concurrence of an applicant, may request a hearing on this denial within 30 days of receipt by applicants of notice of the denial or within 30 days of publication in the **Federal Register**, whichever is later. Any request for hearing must be in accordance with the procedures established by FIFRA and the Agency's Rules of Practice Governing Hearings (40 CFR part 164). Requests for hearing must be received by the Hearing Clerk within the applicable 30–day period, and must be accompanied by a document stating the requestor's objections to the denial of application. If a request is not received by the Hearing Clerk within the applicable time period, the request for hearing will be denied. The objections to the denial of application must clearly and concisely include the basis for each objection (40 CFR 164.20 to 164.22). Failure to file timely or sufficient objections can be grounds for dismissal of the proceeding (40 CFR 164.91).

Requests for a hearing must be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

V. Prohibition Against Sale or Distribution of 1080 Products Under Intrastate Registrations

As noted in Part II above, it is generally unlawful to sell or distribute in the United States pesticide products not registered under FIFRA. An exception is provided for pesticide products registered under an intrastate registration issued prior to 1972 if, *inter alia*, "the Agency has not issued in the **Federal Register** a notice of denial of an application for registration of such product under FIFRA section 3(c)(6)" (40 CFR 152.230(a)(4)). On the date of publication of this Notice in the **Federal Register**, this exception will cease to apply to those 1080 pesticide products covered by intrastate registrations which made proper application for Federal registration. At that time, regardless of whether a hearing on the denial is requested, it will be unlawful under FIFRA for any person to sell or distribute 1080 products under such intrastate registrations.

The Agency understands that, in many cases, 1080 products under intrastate registrations are applied by registrants themselves. These registrants are government bodies, and either supervise or perform the actual applications of 1080 upon requests from private individuals desiring the pesticidal benefits of the 1080 products. Such registrants should be aware that any application of an unregistered pesticide for other than the personal use of the applicator, whether for monetary consideration or not, is considered to be unlawful sale or distribution of an unregistered pesticide (FIFRA Compliance Program Policy No. 3.5). After the date of publication of this Notice, the Agency would thus consider applications of any 1080 products affected by this Notice by government employees (as well as by any other applicators if not applied solely for the benefit of such applicators) to be in violation of FIFRA sections 3(a) and 12(a)(1)(A).

VI. Separation of Functions

This Notice signals the commencement of a proceeding to consider the denial of the subject applications. The proceeding will culminate either at the expiration of the time period for requesting a hearing (if no timely request for hearing is filed), or at the completion of the hearing process (if a timely request for hearing is filed). The Agency's rules of practice at 40 CFR

164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate, or in any investigative or expert capacity, or with any of their representatives.

Accordingly, the following Agency offices, and the staffs thereof, are designated as the judicial staff to perform the judicial function of the Agency in any Administrative hearing on this Notice of Denial: the Office of the Administrative Law Judge, the Office of the Judicial Officer, the Administrator, Deputy Administrator, and the members of the staff in the immediate office of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff may have any *ex parte* communication with the trial staff or any interested person not employed by EPA, on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

Dated: July 24, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 90-18685 Filed 8-8-90; 8:45 am]

BILLING CODE 6560-50-F

federal register

Thursday
August 9, 1990

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Housing Counseling; Notice of Funds Availability

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-90-3120; FR-2834-N-01]

Housing Counseling; Notice of Funds Availability

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of funds availability.

SUMMARY: This Notice announces the Fiscal Year 1990 allocation of $3,146,000 to the HUD Regions, and the availability of those funds for applications from HUD-approved housing counseling agencies to provide housing counseling services to homebuyers, homeowners, and renters under HUD or non-HUD programs.

DATES: Application due date: August 31, 1990. Application packages may be obtained from HUD Regional Contracting Officers. Because the publication of this Notice is overdue, HUD-approved counseling agencies have been contacted in advance to assure that they had at least 30 days notice, in accordance with section 102(a) of the Department of Housing and Urban Development Reform Act of 1989.

FOR FURTHER INFORMATION CONTACT: Curtis D. Myron, Chief, Secretary-Held and Counseling Services Branch, Department of Housing and Urban Development, Room 9184, 451 Seventh Street SW., Washington, DC 20410; (202) 703-3664; or TDD for the hearing- or speech-impaired, (202) 708-4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980, and approved under OMB control number 2502-0260.

Background

Section 106 of the Housing and Urban Development Act of 1968 authorizes the Secretary to carry out a housing counseling program, including mortgage default and rental delinquency counseling. In addition, section 169 of the Housing and Community Development Act of 1987 requires lenders, mortgagees, and loan servicing organizations to refer delinquent homeowners under HUD, VA, or conventional mortgage programs to HUD-approved housing counseling agencies. Under the housing counseling program, HUD makes grants to HUD-approved housing counseling agencies to provide counseling services to homebuyers, homeowners, and renters, both current and potential, under HUD and non-HUD programs. The purpose of the program is to promote and protect the interests of HUD, HUD-approved and other mortgagees, and housing consumers participating in HUD and non-HUD programs.

Housing counseling agencies participating in this program assist housing consumers in improving their housing conditions and meeting the responsibilities of homeownership or tenancy. Housing counseling services include information, advice, and assistance on the rights and responsibilities of housing consumers with regard to issues such as first-time homebuying, rental delinquency or mortgage default, HUD's assignment program, home improvement or rehabilitation, energy conservation, home management skills, and displacement and relocation.

Regional Allocation

The Department allocates funds to each HUD Region for carrying out the housing counseling program. Funds are allocated on the basis of the number of HUD-insured single family mortgages in default within a Region compared to the total number of defaults for all Regions. HUD is concerned with single family defaults because of foreclosures that result in considerable losses to the mortgage insurance funds. The amount of funds allocated to the HUD Regions for housing counseling grants in Fiscal Year 1990 is as follows:

Region I	$37,950
Region II	283,140
Region III	283,140
Region IV	622,710
Region V	534,820
Region VI	566,280
Region VII	94,380
Region VIII	220,220
Region IX	408,980
Region X	94,380
Total	3,146,000

Applications for Funding

Public and private entities approved by HUD to provide housing counseling are eligible to apply for funding. To be approved by HUD, the requirements include one year of experience in counseling and a demonstrated competence in successfully counseling individuals and families in budgeting, debt management, and related areas. Complete information on obtaining HUD approval as a housing counseling agency is available from local HUD Field Offices. Agencies may apply for HUD-approval up to the date when applications must be received at the Regional Office.

Application packages for one-year grants under this Notice are available from the Regional Contracting Officer at HUD Regional Offices. The packages contain complete information and instructions on completing the application and submitting it to the appropriate HUD Regional Office.

HUD-approved applicants for housing counseling grants are selected within a Region on a competitive basis. Applications under the Fiscal Year 1990 Request for Grant Application (RFGA) will be reviewed, scored, and ranked on the basis of the applicant's knowledge of issues relating to the following Performance Factors:

Performance factors	Maximum score (points)
1. Section 169 of the Housing and Community Development Act of 1987	30
2. Default counseling—HUD-insured mortgages	24
3. Affordable housing—counseling public housing tenants on conversion of their units from rental to condominum ownership	20
4. Counseling under the Home Equity Conversion Mortgage Program	20
5. Post-assignment counseling	28
6. Default counseling—conventional mortgages	28
7. Shared housing and default counseling	16
8. Foreclosure	24
9. Assignment—terminal illness	28
Total	218

Applicants must specify the amount of funding for which they are applying, and grants may not exceed that amount. Grants for applicants approved by HUD as a counseling agency for three or more years may not exceed 50 percent of the total allocation for the Region in which an applicant is located. Grants for applicants approved for less than three years may not exceed $20,000.

In determining the amount of a grant, within the limit described above, HUD may look at previous housing counseling grant amounts received by the applicant and the usage of those grants, as reflected in activity reports by the applicant and monitoring reports by HUD staff. Under no circumstances will an applicant's score or scores on responses under the Performance Factors be used for determining the grant amount.

HUD will notify all successful applicants upon selection. Unsuccessful applicants will be notified after the awards have been made. No information will be made available to applicants during the period of HUD review and evaluation, except for notification to those applicants that are declared ineligible or late.

Grant terms

Grants are for a twelve-month period, and represent only a partial reimbursement to grantees for housing counseling salaries, indirect expenses, overhead and administrative costs. Grantees, therefore, must have funds from other sources that may be used to pay for counseling costs. No advance payments will be made under the grant.

Payments are based on the number of counseling units, invoiced on a monthly basis, at the rate of $35 for each counseling unit, not to exceed the total grant amount during the twelve-month grant period. (A counseling unit is a documented contact between the counselor and client, or between the counselor and the mortgagee, landlord, or others on behalf of the client, that identifies, clarifies, or assists in resolving the client's housing need or problem.) Payments from HUD will be in the form of a Direct Deposit into the grantee's bank account.

Certifications

The Drug-Free Workplace Act of 1988 requires grantees of Federal agencies to certify that they will provide drug-free workplaces. Thus, each potential grantee must certify that it will comply with drug-free workplace requirements in accordance with 24 CFR part 24, subpart F.

On February 26, 1990, at 55 FR 6736, the Department joined in the issuance of a governmentwide interim rule advising recipients and subrecipients of Federal contracts, grants, cooperative agreements and loans of $100,000 or more of a new prohibition regarding the use of appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. In general, this rule prohibits the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. In addition, the recipient must also file a disclosure if it has made or has agreed to make any payment with nonappropriated funds that would be prohibited if paid with appropriated funds. Grantees of $100,000 or more will be required to make the necessary certification and disclosure before an award is made. As indicated in this certification and disclosure, the law provides substantial monetary penalties for failure to file the required certificated or disclosure.

Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that the policies announced in this Notice may have a significant impact on the formation, maintenance, and general well-being of families to the extent that the activities of grantees will provide families with the counseling and advice they need to avoid rent delinquencies or mortgage defaults, and to develop competence and responsibility in meeting their housing needs. Providing families with counseling on their rights and responsibilities as homeowners or tenants supports family values by helping families remain together and by enabling them to live in decent, safe, and sanitary housing.

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, that the policies contained in this Notice will not have federalism implications and, thus, are not subject to review under the Order. The housing counseling program provides grants to public and private agencies that assist and advise housing consumers develop competence and responsibility in meeting their housing needs.

(This program is listed in the catalog of Federal Domestic Assistance under program number 14.169, Housing Counseling Assistance Program).

Dated: August 1, 1990.

C. Austin Fitts,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 90-18687 Filed 8-8-90; 8:45 am]

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federal register

Thursday
August 9, 1990

Part VI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 45 and 52

Federal Acquisition Regulation (FAR); Thresholds and Government Property; Proposed Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 45 and 52

Federal Acquisition Regulation (FAR); Thresholds

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to FAR part 45 to raise or delete various dollar thresholds that are outdated and to clarify existing policy.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before October 9, 1990, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., room 4041, Washington, DC 20405.

Please cite FAR Case 90–12 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, room 4041, GSA Building, Washington, DC 20405, (202) 501–4755. Please cite FAR Case 90–12.

SUPPLEMENTARY INFORMATION:

A. Background

Dollar thresholds in part 45 were reviewed for currency, consistency, clarity, and necessity. Revisions proposed are intended to balance prudent control and efficient operations, while streamlining operations. Giving consideration to inflation and the resulting increased costs of property, several thresholds were found to be outdated and were revised, raised, or removed where outdated or irrelevant. In addition, editorial revisions have been made for clarity.

Proposed revisions include—(a) Deletion of the exception to contractors maintaining official records of Government property, in 45.105(b)(4), for property with an acquisition cost of $50,000 or less; (b) increasing the threshold in 45.106(e) for using the "Government-Furnished Property (Short Form)" clause from $50,000 to $100,000; (c) increasing the threshold in 45.106(e), stating purchase orders for property repair need not include a Government property clause, from $10,000 to the small purchase limitation in section 13.000; (d) raising the threshold at 45.302–3(a)(1), pertaining to facilities provided other than under a facilities contract, from $100,000 to $1,000,000; (e) increasing from $1,000 to $5,000 the threshold pertaining to Special Test Equipment in 45.307–2(a) and at 52.245–18; and (f) deleting the exception in 45.506(b)(1) because Government property should be identified, regardless of the presence or absence of other Government property of the same type at the contractor location.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it applies either to the internal operating procedures of the Government or generally to large contractors. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. However, comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite section 90–610 (FAR Case 90–12) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) is deemed to apply because the proposed rule contains information collection requirements. Accordingly, a request for approval of a revised information collection requirement concerning Government Furnished Property Requirements, OMB 9000–0075, is being submitted to the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Public comments concerning OMB Control No. 9000–0075 will be invited through a subsequent Federal Register notice.

List of Subjects in 48 CFR Parts 45 and 52

Government procurement.

Dated: August 1, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 45 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 45 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 45—GOVERNMENT PROPERTY

2. Section 45.105 is amended by revising paragraph (b)(4) to read as follows:

45.105 Records of Government property.

* * * * *

(b) * * *

(4) Under a contract with a short performance period, or

* * * * *

3. Section 45.106 is amended in paragraph (d) by removing the figure "$50,000" and inserting in its place "$100,000"; and by revising paragraph (e) to read as follows:

45.106 Government property clause.

* * * * *

(e) When the cost of the item to be repaired does not exceed the small purchase limitation in section 13.000, purchase orders for property repair need not include a Government property clause.

* * * * *

4. Section 45.302–3 is revised to read as follows:

45.302–3 Other contracts.

(a) Facilities may be provided to a contractor under a contract other than a facilities contract when one of the following exceptions applies:

(1) The actual or estimated cumulative acquisition cost of the facilities provided by the contracting activity to the contractor at one plant or general location does not exceed $1,000,000;

(2) The number of items of plant equipment provided is ten or fewer;

(3) The contract performance period is twelve months or less;

(4) The contract is for construction;

(5) The contract is for services and the facilities are to be used in connection with the operation of a Government-owned plant or installation; or

(6) The contract is for work within an establishment or installation operated by the Government.

(b) When a facilities contract is not used, the Government's interest shall normally be protected by using the appropriate Government property clause or, in the case of subparagraph (a)(5) of this subsection, by appropriate portions of the facilities clauses.

45.307–2 [Amended]

5. Section 45.307–2 is amended in paragraph (a) by removing the figure "$1,000" and inserting in its place "$5,000".

6. Section 45.506 is revised to read as follows:

45.506 Identification.

(a) The contractor shall identify, mark, and record all Government property promptly upon receipt, unless exempted by this section, and shall record assigned numbers on all applicable documents pertaining to the property control system. Property shall be identified by a securely affixed legible and conspicuous marking (e.g., bar coding, decals, stamping, etc.). If marking will damage the property or is otherwise impractical, the contractor shall promptly notify the property administrator. Markings shall be removed or obliterated when Government property is sold, scrapped, or donated. Exempted items shall be entered and described on the accountable property records.

(b) All Government property shall be identified as Government property except in those cases where—

(1) Adequate physical control is maintained over protective clothing, tool crib, guard force, and other items issued to individuals for use in their work;

(2) Property is of bulk type, or its general nature of packing or handling precludes adequate marking; or

(3) Material is commingled, as authorized by 45.507; or

(4) As otherwise authorized by the property administrator.

(c) In accordance with procedures approved by the property administrator, the contractor shall mark Government-owned special tooling, special test equipment, and plant equipment, with a serial number and an indication of Government ownership. If marking will damage the equipment or is otherwise impracticable, the contractor shall promptly report the problem to the property administrator. The contractor shall mark in a manner similar to plant equipment all components of special test equipment that have an acquisition cost of $5,000 or more and are incorporated in a manner that makes removal and reutilization feasible and economical. For items included in a standard agency registration system, registration numbers obtained from the owning agency through the property administrator may be used in lieu of other identification numbers.

(d) Accessory or auxillary equipment assoicated with a specific item of plant equipment and recorded on the property records need not be marked with an identification number, unless necessary to assure its return with the associated basic item.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.245-18 [Amended]

7. Section 52.245-18 is amended by removing in the title of the clause the date "(AUG 1988)" and inserting in its place "(OCT 1990)"; and by removing in the third sentence of paragraph (b) introductory text the figure "$1,000" and inserting in its place "$5,000" both times that "1,000" appears.

[FR Doc. 90-18651 Field 8-8-90; 8:45 am]
BILLING CODE 6820-34-M

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48 CFR Part 45

Federal Acquisition Regulation (FAR); Government Property

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to revise FAR 45.302-3(c) to clarify policy regarding fee or profit in the acquisition of general purpose components of special tooling and special test equipment.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before October 9, 1990, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4041, Washington, DC 20405. Please cite FAR Case 90-41 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAR Case 90-41.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule merely implements in the FAR the procedures currently being followed by individual agencies. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties.

Comments from small entities concerning the affected FAR subsection will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite section 90-610 (FAR Case 90-41) in correspondence.

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 45

Government procurement.

Dated: August 2, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 45 be amended as set forth below:

PART 45—GOVERNMENT PROPERTY

1. The authority citation for 48 CFR part 45 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

2. Section 45.302-3 is amended by adding paragraph (c) to read as follows:

45.302-3 Other contracts.

* * * * *

(c) No profit or fee shall be allowed on the cost of the facilities when purchased for the account of the Government under other than a facilities contract. This policy does not apply to the acquisition of general purpose components of special tooling or special test equipment.

[FR Doc. 90-18652 Filed 8-8-90; 8:45 am]
BILLING CODE 6820-34-M

federal register

Thursday
August 9, 1990

Part VII

The President

National Interest Certification for Sale of F-15s to Saudi Arabia (Memorandum for the Secretary of State)

Federal Register
Vol. 55, No. 154
Thursday, August 9, 1990

Presidential Documents

Title 3—

The President

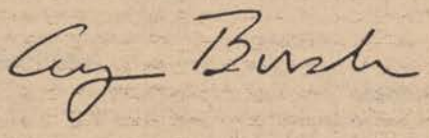
Memorandum of August 8, 1990

National Interest Certification for Sale of F–15s to Saudi Arabia

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 1306(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456), I hereby certify that it is in the national interest of the United States to waive section 1306(a) of that act.

You are hereby authorized and directed to transmit this certification to Congress and to publish it in the **Federal Register**.



[FR Doc. 90–18982
Filed 8–8–90; 2:06 pm]
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Federal Register

Vol. 55, No. 154

Thursday, August 9, 1990

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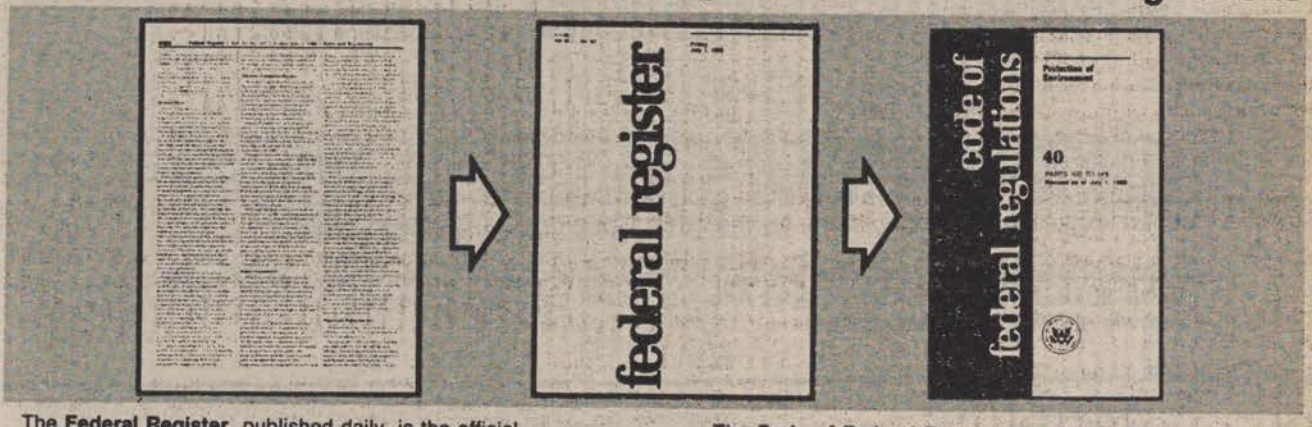

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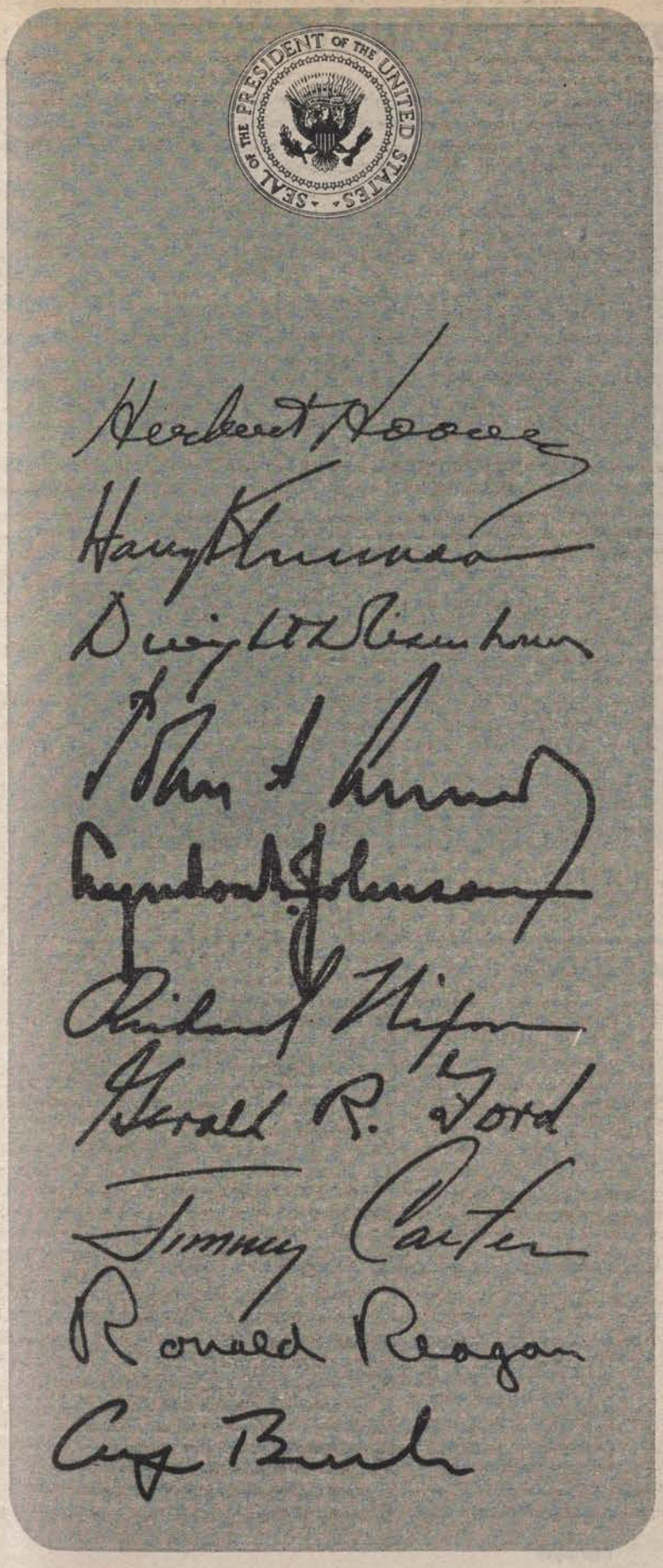

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